

**INQUIRY INTO THE ALLEGED INVOLVEMENT
OF THE CENTRAL INTELLIGENCE
AGENCY IN THE WATERGATE
AND ELLSBERG MATTERS**

**HEARINGS
BEFORE THE
SPECIAL SUBCOMMITTEE ON INTELLIGENCE
OF THE
COMMITTEE ON ARMED SERVICES
HOUSE OF REPRESENTATIVES
NINETY-FOURTH CONGRESS
FIRST SESSION**



**HEARINGS HELD MAY 11, 16, 17, 21, 24, 31, JUNE 4, 7, 13, 22, 28, 29,
JULY 9, 13, 17, 18, 19, 20, 1973; SUBSEQUENT HEARINGS HELD
FEBRUARY 25, 26, MARCH 7, JUNE 17, JULY 2, 1974**

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[H.A.S.C. No. 94-4]

**SPECIAL SUBCOMMITTEE ON INTELLIGENCE INQUIRY INTO THE
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AGENCY IN THE WATERGATE AND ELLSBERG MATTERS**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Friday, May 11, 1973.

The subcommittee met in executive session pursuant to notice, at 10:07 a.m. in room 2216, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order.

After discussing the matter with counsel and the chairman of the full committee, we have decided that the preferable procedure would be to have Dr. Schlesinger read his statement, following which General Cushman will come forward.

STATEMENT OF DR. JAMES R. SCHLESINGER, DIRECTOR OF CENTRAL INTELLIGENCE, ACCOMPANIED BY WILLIAM E. COLBY, DEPUTY DIRECTOR OF OPERATIONS; BERNARD M. MALLOY, CHIEF, PSYCHIATRIC STAFF, OFFICE OF MEDICAL SERVICES; JOHN R. TIETJEN, DIRECTOR OF MEDICAL SERVICES; LAWRENCE R. HOUSTON, GENERAL COUNSEL; GEORGE L. CARY, JR., ACTING LEGISLATIVE COUNSEL; GEN. ROBERT E. CUSHMAN, JR., USMC, FORMER DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE

Dr. SCHLESINGER. Mr. Chairman, I shall read the statement and it is the same statement that I used the other day before the Senate Appropriations Subcommittee on the matter of the involvement of the Central Intelligence Agency in the case of Daniel Ellsberg, to the extent I have been able to ascertain the facts.

I am here to discuss the questions which have arisen over CIA's real and alleged role in events that occurred in 1971 and 1972. I have opened a detailed investigation into the precise nature of that role. I can report to you on what Agency records, now being intensively reviewed, reveal at this juncture. However, I do not yet know that I have all the facts in the matter. Nonetheless, I am pleased to present to you such facts as are now available, and I will certainly provide you with any further details as they come to my attention.

Let me start with the Agency's relationship with Mr. Howard Hunt, whose testimony has recently been made public.

Mr. Chairman, we have that part of Mr. Hunt's testimony that bears on his involvement with the CIA, and that would be available for the record, if you wish to have it.

Mr. NEDZI. All right, without objection we would like to have it placed in the record at this point.

[The document referred to is in committee files.]

Dr. SCHLESINGER. I believe it is not his complete testimony before the grand jury, but whatever so far as we are informed, applies to the CIA is available in that form.

Mr. Hunt was a staff employee of the Agency from November 8, 1949 to April 30, 1970. At that time he retired from the Agency. He performed one editorial job of writing up a recommendation for an award for one of our officers in November 1970. He was not paid for these services, although the Agency placed the sums of \$200 and \$500 in two charitable organizations for the service performed.

In early July 1971, General Cushman, then the Deputy Director of Central Intelligence, received a telephone call from the White House. He was informed that Mr. Hunt had become a consultant on security affairs for the White House, and a request was made that Mr. Hunt receive assistance from the Agency. The minutes of the Agency morning meeting of July 8, 1971 indicate that the DDCI—General Cushman—reported a call by John Ehrlichman stating that Howard Hunt had been appointed a White House security consultant.

On July 22, 1971 Mr. Hunt visited General Cushman at the CIA building. According to the records, Mr. Hunt stated that he had been charged with a highly sensitive mission by the White House to visit and elicit information from an individual whose ideology he was not entirely sure of, and for that purpose he said he was asked to come to the Agency to see if he could get two things: Identification documents in alias and some degree of physical disguise, for a one-time operation. He stressed that he wanted the matter to be held as closely as possible and that he would like to meet the Agency people in an Agency safehouse.

Agency records indicate that, in the course of the conversation, Mr. Hunt referred to Mr. Ehrlichman by name and General Cushman acknowledged an earlier call from Mr. Ehrlichman to him. The committee may desire to query General Cushman whose knowledge would not come from such secondary source, and the committee will, I am sure, be querying General Cushman, whose knowledge of these matters comes from other than secondary sources.

General Cushman directed the appropriate technical service of the Agency to be of assistance to Mr. Hunt, based on the above request. On July 23, 1971, Mr. Hunt was given alias documents, including a social security card, driver's license, and several association membership cards, in the name of "Edward Joseph Warren" similar to material he had been furnished for operational use while he had been an Agency employee, under the name of "Edward V. Hamilton." The same day Mr. Hunt was also given disguise materials, a wig, glasses, and a speech alteration device.

By calling an unlisted telephone number given him, Mr. Hunt arranged several additional meetings with Agency technical officers, the dates of which cannot be provided with precision. In these, he requested and was provided a commercial tape recorder—in a typewriter case—and a commercial Tessina camera disguised in a tobacco pouch. He also brought in a then-unidentified associate—later identified from press photos as Mr. G. Gordon Liddy—and secured for him

a disguise, wig and glasses, and alias documents in the name of "George F. Leonard."

The Agency technical officers met these requests despite the absence of the procedural steps and approvals normally required by Agency regulations. However, they became increasingly concerned at the escalation of Mr. Hunt's requests for assistance. These finally included a request from Mr. Hunt to be met on the morning of August 27, 1971, upon his return from California, to have a film developed and returned to him. This was done the same day. He also asked for a New York mail address and telephone answering service for operational use.

The technical officers raised their concern with senior officers, who noted the possibility that these activities could involve the Agency in operations outside its proper functions. As a result, again according to Agency records, General Cushman telephoned Mr. Ehrlichman at the White House on August 27, 1971, and explained that further such assistance could not be given. Mr. Ehrlichman agreed. The request for mail address and telephone answering service was not honored.

On August 31, 1971, Mr. Hunt contacted the technical officers again, requesting a credit card, but this was refused. Mr. Hunt had also made a request on August 18, 1971 for the assignment of a secretary he had known during his Agency career. This was also refused.

The earlier-furnished alias documents and other material were not recovered, however, except for the Tessina camera which was returned on August 27 as unsuitable. Since the end of August 1971, the Technical Services Division has had no further association with Mr. Hunt. As a point of reference, I would note that the break-in of the office of Mr. Ellsberg's psychiatrist took place on or about September 3, 1971.

The Agency outlined the above events to Mr. Patrick Gray, Acting Director of the FBI, in letters dated July 5, and 7, 1972, and at a meeting on July 28, 1972. A series of questions were asked the Agency on October 11, 1972 by Mr. Earl Silbert, principal assistant U.S. attorney for the District of Columbia. On October 24, 1972, Attorney General Kleindienst and Assistant Attorney General Petersen reviewed the July 5 and 7 transmittals together with additional, more detailed but undated materials, that had been provided to Acting FBI Director Gray on October 18, 1972.

The Agency is aware that this material was reviewed on November 27, 1972 by Mr. Silbert, who asked additional questions on that date as well as on November 29, 1972. Written responses to the foregoing questions were provided on December 13, 1972. An additional submission was made to Assistant Attorney General Petersen on December 21, 1972. This material was discussed at a meeting held with Assistant Attorney General Petersen and Mr. Silbert on December 22, 1972. All of the foregoing materials can be made available to the committee if it so desires.

Mr. NEDZI. At this point, Dr. Schlesinger, if I may interrupt. Would you place those materials in the record?

Dr. SCHLESINGER. Yes, sir.

Mr. NEDZI. Thank you.

[Documents in committee files.]

Dr. SCHLESINGER. As a separate matter, which was not known by those who prepared the material for the Department of Justice in the fall of last year, the Office of Medical Services of the Agency pre-

pared and forwarded to the White House two indirect personality assessments of Mr. Daniel Ellsberg. The Agency has had a program of producing, on a selective basis, such assessments or studies on foreign leaders for many years. In July 1971 Mr. Helms, then Director, instructed Agency officers to work with Mr. David Young of the White House staff relative to security leaks in the intelligence community.

Mr. Young requested a study on Mr. Ellsberg in the latter part of July 1971, which Agency activity was apparently approved by Mr. Helms. At that time, Mr. Young supplied raw material consisting principally of newspaper and magazine articles together with some State Department and Justice Department papers. The first assessment delivered to the White House, dated August 1971, was judged insufficient.

As a result, there were several meetings between Dr. Malloy, Mr. Hunt, and Mr. Liddy, in which classified information of the Justice and State Departments was introduced. In addition to that, Mr. David Young participated in some of those meetings, as I think Dr. Malloy will describe later. One such meeting occurred on August 12, 1971. Additional material was transmitted by Mr. Hunt on October 12, and another meeting was held on October 27.

These meetings led to a second version of the assessment, dated November 9, 1971. This document was delivered to the Executive Office by Dr. Malloy on November 12, 1971. Agency records indicate that Mr. Helms had previously communicated with Mr. Young, indicating he had read both reports.

In another contact "about October 1971," an Agency officer arranged to provide Mr. Hunt certain unclassified materials from CIA files relative to a 1954 French case of leakage of Government documents. These were delivered to his office at the White House.

In closing, I would like to stress several conclusions of my investigation so far:

a. CIA had no awareness of the details of Mr. Hunt's activities. The Agency's impression was that Mr. Hunt was engaged in an activity related to identifying and closing off the security leaks that were so much a preoccupation of the Government at the time.

b. The Agency clearly was insufficiently cautious in the initiation of its assistance to Mr. Hunt. Later, when the nature of Mr. Hunt's requests for assistance began to indicate a possible active involvement by the Agency in activities beyond its charter, the Agency terminated the relationship and refused further assistance. I should say "that phase of the relationship."

c. The preparation of a profile on an American citizen under these circumstances lies beyond the normal activity of the Agency. It shall not be repeated—and I have so instructed the staff. This shall be made a part of the regulations governing such activities.

d. As Director, I have called for a review of all Agency activities and the termination of any which might be considered outside its legitimate charter. In addition to requesting this review from my subordinates, I have directed each employee and invited each ex-employee to submit to me any cases which they may question. I am determined that the Agency will not engage in activities outside of its charter but will concentrate its energies on its important intelligence mission.

Mr. Chairman, I will be delighted to answer any questions.

You may prefer to hear General Cushman at this time, however. Mr. NEDZI. Thank you, Doctor.

I think if we may, we would like to have General Cushman at this time.

General CUSHMAN. Yes, sir, Mr. Chairman.

Mr. NEDZI. Do you have a statement, other than the affidavit, General?

General CUSHMAN. No, sir, that is my statement, which I would like to read, if I may.

Mr. NEDZI. You may proceed.

STATEMENT OF GEN. ROBERT E. CUSHMAN, JR., USMC, FORMER DEPUTY DIRECTOR OF CENTRAL INTELLIGENCE

General CUSHMAN. This is a sworn statement which I swore to this morning, but I think it will also serve as an opening statement here for the committee.

1. I was the Deputy Director of Central Intelligence from May 7, 1969, to December 31, 1971.

2. I wish to state unequivocally that I had no knowledge before or after the fact of any illegal or unethical acts.

3. About July 7, 1971, Mr. John Ehrlichman of the White House called me and stated that Howard Hunt was a bona fide employee, a consultant on security matters, and that Hunt would come to see me and request assistance which Mr. Ehrlichman requested that I give. I wish to explain here that the Central Intelligence Agency comes under the authority of and works for the National Security Council which is, of course, the President himself advised by such assistants as are named in the National Security Act of 1947. I had known Mr. Ehrlichman for a good 10 to 12 years and respected him highly as a man of complete honesty and devotion to duty. I also knew that he was one of the three Chiefs of Staff, as it were, to the President and that therefore he spoke with the authority of the President's name. This was also a time when the national security aspects of leaks of intelligence information were of great concern within the Government. Ehrlichman had been named within the White House as the man in charge of stopping security leaks and overhauling the security regulations. The Central Intelligence Agency is charged with safeguarding intelligence sources and methods. From these facts, I then drew the following conclusion, which I believe any reasonable man would have reached, namely, that Howard Hunt had been hired by the White House to act in the security field and that the Central Intelligence Agency was being ordered to assist him.

4. Following this July 7 call, Mr. Hunt called on me in my office* on July 2, 1971, and stated that he had a very sensitive one-time interview that the White House wanted him to hold with a person whose ideology he was not too sure of and that he dare not reveal his, Hunt's, true identity. The White House therefore wanted assistance from our technical services in providing him with an identity which would be other than his own. He, of course, after 20 years in the CIA knew well that we had this capability. It must be recalled that Mr. Howard Hunt was a highly respected and honorably retired CIA employee of 20 years' service. I was not able to elicit any details of the interview which he

*For transcript of visit see Appendix, p. 1125.

stated that he had to conduct and he said that on White House orders he was not to reveal the nature and scope of this interview nor of the fact that he worked for the White House. He did assure me, however, that he was working to a good purpose in the interests of the country. Upon his assurance that this was, in his words, a "one-time operation—in and out," I authorized the Technical Services Division to give him the necessary papers and disguise to enable him to conduct this interview so that he would not be known nor could he be recognized later. To the best of my recollection, I reported this a few days later to the Director of Central Intelligence, Mr. Richard Helms, and he assented to what I had done.

Toward the latter part of August 1971, it was reported to me that Mr. Hunt was becoming more and more unreasonable and demanding and was attempting to go far beyond the scope of the original instructions which I had given and which related to his statement that he had a one-time interview operation to conduct. I therefore immediately stopped all relationships with Mr. Hunt and gave instructions to that effect to the Agency. I called Mr. Ehrlichman on that matter on August 27, 1971, and I said that we cannot give such assistance because it might possibly be construed as involving the Agency in improper activities. I then explained the constraints on the Agency and finally advised Ehrlichman that the Agency would not have anything further to do with Hunt. I also advised him that in my opinion Mr. Hunt was of questionable judgment. He should know better than to even ask for such support. Therefore, I made this recommendation to Mr. Ehrlichman for him to do with as he deemed proper.

5. In conclusion, I wish to state that what I did was perfectly proper and was done in conformity with orders from higher authority. As soon as I found out that the individual involved, Mr. Howard Hunt, was not exercising proper judgment and was exceeding what I considered proper, I so reported it to his superior in the White House and to Mr. Helms. This stopped all further dealings with Mr. Hunt.

Signed, Robert E. Cushman, Jr., General, USMC.

Mr. NEDZI. General, is there anything you wish to add to the affidavit?

General CUSHMAN. Only that my last sentence, as I just find out, is relating to my activities with Mr. Hunt only. Apparently he did have further relationships with the Agency with respect to a profile, which I understand from reading testimony given yesterday and the day before, was a contact between Mr. Hunt and the Agency. But I thought I had terminated all relationships. I certainly had with respect to me.

Mr. NEDZI. General Cushman, can you flush out in a little more detail your conversation with Mr. Ehrlichman? I notice on the first page of your affidavit, you use the word "requested"; on the second page you use the words "being ordered."

What was the conversation?

General CUSHMAN. I cannot recall the exact words, Mr. Chairman, but whether he used the word "request" or "wanted," I would construe it as an order, since the White House was in my mind in the chain of command over the Central Intelligence Agency.

Mr. NEDZI. What did he say he wanted?

General CUSHMAN. He wanted me to help Mr. Hunt, who would be appearing after a while to see me in my office, and he didn't discuss

the matter over the phone. He was paving the way, in other words, for Mr. Hunt to appear.

Mr. Hunt made the request in words that went, "The White House asked that you, the Agency, provide the assistance I need in the matter of concealing my identity for this one-time interview."

Mr. NEDZI. You state in your affidavit Ehrlichman had been named within the White House as the man in charge of stopping security leaks and overhauling security regulations. How were you aware of that fact?

General CUSHMAN. I must say I believe it was only from reading it in the press, if I am not mistaken. My recollection is not too good on that point as to how I learned that.

Mr. NEDZI. This is something you knew at the time Ehrlichman called you?

General CUSHMAN. Yes, sir. There was a great concern at the time over a number of leaks that had occurred from apparently within the Government in terms of the SALT talks, in which our negotiating posture appeared ahead of time in the papers. Of course the whole Ellsberg case had just broken, as I recall, in which all of these classified papers relating to the Vietnam war had been surfaced in the papers. So there was great concern that somehow——

Mr. NEDZI. Did Mr. Ehrlichman make specific reference to any of these?

General CUSHMAN. No, sir, he did not. His conversation with me established essentially the fact that Hunt was a bona fide employee of the White House as a consultant on security matters, and that he would be coming to see me, and that therefore he wanted assistance given to him. That was the extent of the conversation, and it was left to Hunt to present the case in terms of the details of what he was doing, and he did not present too much of that.

Mr. NEDZI. At the time of your conversation with Mr. Ehrlichman, did you express any concern about the Agency becoming involved in matters outside of its charter?

General CUSHMAN. No, sir. He didn't put it on those terms. As I say, he simply said Hunt would be coming to see me, and present the job that he had to do, and the assistance that he needed. That is what I got out of the conversation.

Mr. NEDZI. Did it ever occur to you some request might be made that was not reasonable and outside the Agency's charter?

General CUSHMAN. I must say it didn't enter my mind; no, sir.

Mr. NEDZI. When Hunt came to you, what was your specific conversation with him?

General CUSHMAN. Well, the specific conversation was that he stated that he was to conduct for the White House a highly sensitive interview in which he did not want to disclose his identity. The person was apparently unfriendly, he stated an ideology of which we are not sure, and that it was, however, being done in the best interests of the country, and led me to believe that it was entirely, therefore, legal and simply an interview, for what purpose he would not say.

Mr. NEDZI. Did it appear unusual to you that he would not disclose to the Deputy Director of Central Intelligence Agency, what the specific mission was?

General CUSHMAN. Under the circumstances, no, sir. I had been called in advance by a superior in the White House and was told to

provide assistance. I didn't dream they would request assistance for something improper.

Mr. NEDZI. Had it ever occurred before when you were privy to a specific operation, that you were requested to provide assistance for?

General CUSHMAN. No, sir. I believe the only other calls that I had related to intelligence documents, perfectly routine, when is this going to be furnished, and that sort of thing. No, I never had any such request as this before.

Mr. NEDZI. Have you any speculation as to why you were called and not the Director himself?

General CUSHMAN. I have been trying to remember. I can't recall whether the Director was out of the building. I did announce it the next morning at the 9 o'clock staff meeting that I had had the call from Ehrlichman. Then when Hunt showed up several weeks later, to the best of my recollection, after I had had the conversation with him, I told Mr. Helms, and he simply took it aboard. He didn't say no. He assented, probably by silence I guess.

Then I wrote him a memo when it became obvious that Hunt was not a man with whom the Agency should have any further dealings. I called Ehrlichman and told him that, and then wrote a memorandum to Mr. Helms, in which he said fine, OK; I had done all right.

Mr. NEDZI. Can you provide the subcommittee with a copy of that memorandum?

General CUSHMAN. Yes, sir, I believe so.

SENDER WILL CHECK CLASS. ACTION TOP AND BOTTOM					
UNCLASSIFIED		CONFIDENTIAL		SECRET	
OFFICIAL ROUTING SLIP					
TO	NAME AND ADDRESS		DATE	INITIALS	
1	DCI		31 AUG 1971	JLH	
2					
3	DDCI			KJ	
4					
5	ER-FILE				
6	Howard Hunt				
	ACTION	DIRECT REPLY	PREPARE REPLY		
	APPROVAL	DISPATCH	RECOMMENDATION		
	COMMENT	FILE	RETURN		
	CONCURRENCE	INFORMATION	SIGNATURE		
Remarks: I called John. P. Wickham Friday and explained why we could not meet these requests. I indicated Hunt was becoming a pain in the neck. John said he would restrain Hunt. Good [initials] L					
FOLD HERE TO RETURN TO SENDER					
FROM: NAME, ADDRESS AND PHONE NO.				DATE	
DDCI				8-20-71	
UNCLASSIFIED		CONFIDENTIAL		SECRET	

Mr. NEDZI. What kind of orders, General Cushman, did you give to your subordinates after Mr. Hunt's request?

General CUSHMAN. I simply asked my executive assistant, Karl Wagner, to call the Technical Services Division and tell them that they were to furnish Mr. Hunt with the necessary papers to indicate an alias. They have a procedure for this which they apparently went through, but I gave them no other details.

Mr. NEDZI. Do you know what kind of orders Mr. Wagner gave the Technical Services Division?

General CUSHMAN. I think he gave them just that. In other words, they understood they were to cooperate with Mr. Hunt to help him conduct this interview. It turns out, I believe, that he kept after them to give him other things, which it is hard to see what they had relationship to—camera, for example, and tape recorders. But it disturbed me sufficiently when they reported this to me that I closed off the relationship, because it didn't seem to me that these were instruments needed for a specific one-time interview.

Mr. NEDZI. Who in the Technical Services Division was working on this?

General CUSHMAN. Mr. [deleted], I believe.

Mr. NEDZI. Was he the only one?

General CUSHMAN. I could not say, sir. I never did talk to him directly myself.

Mr. NEDZI. Let me ask this. Did you construe the delivering of a camera to Mr. Hunt as a violation of your orders in light of what Mr. Hunt told you, in light of what you asked Mr. Wagner to submit?

General CUSHMAN. No, but I began to wonder whether he wasn't trying to stretch what he told me into doing some other kind of mission which he hadn't said a word about. That was my primary concern.

Mr. NEDZI. Did you let him receive the camera for a one-time interview?

General CUSHMAN. It didn't seem to be a necessity for a one-time interview to take pictures. Then I was concerned too, right on top of that, he asked, as I recall, for a secretary, and he asked that the Agency help him monitor his phone calls—in other words, provide an answering service when he was gone.

I couldn't see any relationship of this to what he told me. As I say, I called it off.

Mr. NEDZI. When did you first find out the specific equipment that was given Mr. Hunt?

General CUSHMAN. I would say that I learned probably the day before I called up Ehrlichman. It was reported to me. In other words, this had been going on over a period of a couple of weeks, these increasing demands for more services, and that finally the people who were involved in providing them in the Technical Services Division were concerned, decided to bring it up with me, and did so, and I reacted as soon as they did.

So I would say to the best of my recollection that they brought it up probably either the same day or the day before that I called Ehrlichman and told him I thought that Mr. Hunt was exceeding the instructions.

Mr. NEDZI. How many contacts were there between Mr. Hunt and the Technical Services people?

General CUSHMAN. I don't know, sir. -

Mr. NEDZI. How many are you aware of?

General CUSHMAN. Oh, I guess about two or three. I am sure there were more, but I don't know how many there were. I think Mr. [deleted] probably has a log of what and when the visits occurred, but I am not sure of that.

Mr. NEDZI. You still don't consider it a violation of your order that this kind of continuing contact would be made on Mr. Hunt's part?

General CUSHMAN. I certainly came to that conclusion when I found out it was going on. It was very difficult—

Mr. NEDZI. In other words, it was a violation of your order?

General CUSHMAN. Well, no, sir. I think it is a matter of judgment as to what this stuff was going to—how it might be—

Mr. NEDZI. It was a violation of your order?

General CUSHMAN. No, sir, I didn't mean to give that impression. My orders were to the Technical Services Division that they were to assist Mr. Hunt in providing for him the material he needed to establish an alias. Now, I was not aware of the exact things that they provide. They do this for our people who operate overseas, and it includes usually what is called pocket litter pieces of paper that indicate what the name is, perhaps a social security card.

Now, whether it included a camera or not, I didn't know, and I suppose that the Technical Services people, if he needs to take a picture of the man at the interview, it was a part of the deal, part of the orders. But if not, then it would be questionable. But I think it was a judgment factor. But I would suggest that Mr. [deleted] might be able better to answer that, since he is in that business.

Mr. NEDZI. In your affidavit, General Cushman, you state that you were not able to elicit any details of Mr. Hunt's operation. At that time did it occur to you that this activity might be outside the scope of the Agency charter?

General CUSHMAN. No, I didn't—I didn't think that. I didn't think anybody would order such a thing in the first place. I certainly didn't think that he would be involved in any such thing, since he worked there for 20 years and knew full well, I thought, what was proper and what wasn't.

It was only after it became evident to me he wasn't exercising any such restraint, I felt, it was time to close him out.

Mr. NEDZI. Were you involved in the making of any judgments with respect to Agency participation in domestic affairs or activities outside the scope of the charter?

General CUSHMAN. I have never been, no, sir.

Mr. NEDZI. The question never arose during your tenure as Deputy Director, as to what was a proper action on the part of the Agency in connection with their charter?

General CUSHMAN. No, but I was expected to know what the constraints of the law were, and I did know.

Mr. NEDZI. You never were confronted with that kind of a decision when confronted with a project of that kind?

General CUSHMAN. I don't recall any; no, sir.

Mr. NEDZI. Mr. Arends, do you have any questions?

Mr. ARENDS. Not at the moment.

Mr. NEDZI. Mr. Chairman.

Mr. HÉBERT. Yes, I would like to try to establish the method of operation. The Director also referred to the fact you got the call from Mr. Ehrlichman from the White House, and you took for granted or assumed that he was speaking with authority and had the right to call from the White House, and even for the President. When Ehrlichman called he was calling right in the councilroom, so to speak?

General CUSHMAN. Yes, sir.

Mr. HÉBERT. General, you were an aide to Vice President Nixon, were you not?

General CUSHMAN. For 4 years; yes, sir.

Mr. HÉBERT. For 4 years. At that time the White House Chief of Staff was Sherman Adams?

General CUSHMAN. Yes, sir.

Mr. HÉBERT. Was it operated in the same tone, the same atmosphere, as you found it to be operated now? Would the individuals call—a recognized individual like Ehrlichman—call and make requests in the name of the President?

General CUSHMAN. I can't answer, sir, because I was never called by any of those people. My relationships with the White House in those days were mostly between myself and Gen. Andy Goodpastor, who occupied a somewhat similar position to mine of advising on intelligence, on Pentagon affairs, on nonpolitical matters, which related to national security. I sort of served the same function for Mr. Nixon that Andy Goodpaster did for President Eisenhower.

So we had talks back and forth, but I was never in the business of being called to do anything by Mr. Adams, for example.

Mr. HÉBERT. I want to establish exactly what we are talking about now, because I would like to bring everything into a sharp focus. Now, during the time that you were Deputy Director of CIA—this transferred your position of operation to a different situation as a military counterpart of General Goodpaster—were you called from the White House on occasions by Mr. Haldeman?

General CUSHMAN. I would like to say first, primarily by Dr. Henry Kissinger, since we of course had to work very closely with him, and we sat in his committees that he chaired, either Mr. Helms or myself. Most of our conversations were with him.

I can't recall any other phone calls with Mr. Ehrlichman of a business nature other than this one, but I had known him through the years. We often chatted at social occasions and so on.

So there is no question in my mind about who it was calling, and this sort of thing. We were on a first name basis.

Mr. HÉBERT. I can understand that, but I am trying to establish the operational type. You said Dr. Kissinger talked on the phone. I am trying to put this in the proper frame of the atmosphere at that time. Wasn't this also the time, beyond the Pentagon Papers, when there was a so-called leak out of Dr. Kissinger's office?

General CUSHMAN. Yes, sir, they were worried about that. I might say there was another problem which we were becoming involved in in the Agency, and in which there was a separate group set up in the White House. This was the drug problem, in which the CIA was

directed to do what they could overseas to obtain intelligence on drug smuggling and production and so on in Europe and Asia.

This required meetings. As I recall Mr. Ehrlichman was, I think, concerned with these affairs. Krogh was, I believe, concerned with these affairs, and they had a high-level committee set up, chaired, as I recall, by the Secretary of State. So this problem was much in the forefront, so there was some calling from the White House on these matters, although not to me personally.

Nevertheless, there was in my opinion considerable phone calling from what I call the three chiefs of staff in matters relating to their spheres of interest all around the Government. There is no question but what the operation was effected in this way.

Mr. HÉBERT. This was the only time any one of the three chiefs—Haldeman, Ehrlichman, and Kissinger—ever called to introduce or reintroduce somebody to you to assist them in what they were doing?

General CUSHMAN. Yes, sir.

Mr. HÉBERT. This is the only time?

General CUSHMAN. Yes, sir. Dr. Kissinger called frequently, and if Mr. Helms wasn't there, then I would take the call. It usually related to meetings on national security affairs coming up, and that sort of thing. It had no relation to this.

Mr. HÉBERT. I want to proceed to the area which the chairman has mentioned regarding the domestic activity of the CIA as compared to its charter.

I express a personal opinion here, without referring in particular to Ellsberg or anyone else.

For instance, with regard to who leaked the papers out of Kissinger's office, the President has the right to find that out. This affects the national security. This is a matter of opinion on our part. I am not too disturbed about the fact that Ellsberg's name was in the papers at that time. He had stolen the Pentagon Papers. He had released them by his own admission. Then it was something to find out where this thing spread to.

The only thing that disturbs me, and yet it doesn't disturb me because I recognize the facts of life, that at least one or more of these people in higher positions in the White House would flagrantly use the President's name to gain an entree. This is why I asked you the question if this was the only time. You recall right away your assumption that he was talking with authority.

General CUSHMAN. There is no question about that.

Mr. HÉBERT. That is what I wanted to ask you. I think that in looking at how this whole ungodly mess developed it is going to be found out more and more that a lot of things could be done in the President's name without the President's knowledge.

General CUSHMAN. He didn't even mention his name in the phone call to me. I knew what his position was and he didn't have to.

Mr. HÉBERT. Of course you knew, and I recognize that. Perhaps only Mr. Arends and myself here are exposed to this. I know I am, and I speak only for myself. I wasn't exposed to it as much before I became chairman of the committee, but the telephone is picked up and somebody in the White House, even at a lower level, will say "The President has asked me to ask you." The President probably never heard about it.

These are things I think should be cleaned up. This concerns me a great deal, that the finger of accusation is being pointed in so many directions—at people who perhaps are not as suspicious as I am, because these calls didn't fool me. I knew the President didn't tell them to call me. But to other Members and other people, they think the President asked an aide to call them. The President probably didn't know a thing about it.

You are a man of experience. You have been exposed to the White House, as an assistant to the then Vice President Nixon. You knew Ehrlichman and these people, and when they called you you certainly assumed they were talking for higher authority.

General CUSHMAN. Yes, sir. I certainly knew what their authority was, and furthermore it never entered my mind, the question of what they were doing was in the best interest of this country. They had always acted that way before, as far as I knew.

Mr. HÉBERT. Of course.

General CUSHMAN. This was 1971, and none of this had come out, of course.

Mr. HÉBERT. I believe a lot of us are guilty of things that we would not do again in retrospect, as we look back over our shoulders. On the other hand, the way this whole thing developed, not only in the case of you, General, but the whole picture involves the most stupid, foolish, silly things I have ever heard of in my life. Acting as cops and robbers, for what purposes I don't know yet, but no doubt they did it.

I don't want to see innocent people involved. It is so easy under this atmosphere. I want to establish these particular lines to find out how this happened. Anybody can say, "No, I wouldn't have done it." They would have done the same thing if put in the position you were. That is the way I feel.

General CUSHMAN. Thank you, sir.

Mr. NEDZI. Mr. Arends.

Mr. ARENDS. Mr. Chairman, following up a little bit. This is going through my mind. Is there some way it can be put in the record, if it is agreeable to put in the record, the limitations of what you can and cannot do by regulation? In other words, how far can the Central Intelligence Agency go? Apparently you felt justified that you could go this far. Eventually you got to the point where you said that is too far.

What are the restrictions on what you can do at the request of the Government? What has been going through my mind is this. I have asked this question of many, many of the so-called legal lights of the House over here, who self-admittedly are great lawyers, and none of them have given me an answer.

What bothers me is this: When the security of the country is involved, such as apparently in this case because the papers were stolen by Ellsberg and finally released, it certainly is legitimate to go out and find out how these leaks occurred. At that time everybody felt very strongly the release of these papers was against the best interests of our great Nation.

The case has not been proven at this time, but it is still a question. When do we get to the point where the CIA cannot help and assist in determining all the facts relative to the security of the country, that is what I want to know?

I am bothered by this, and somehow I would like to find an answer from somebody. May we go just a little bit further, General? This was a case involving the security of the United States of America, which had an effect not only locally but throughout the world.

Now, is this a legitimate request on the part of somebody that we find out everything we can about this for the benefit of America, regardless of where you try to find out?

General CUSHMAN. Well, sir, I would like to give you my answer to that, and then perhaps you would like to ask the Director and his legal counsel, who are here.

As I understand it, the limitations on the Agency stem from the National Security Act of 1947, which states that the Agency will not have any police powers, nor the powers of subpoena, and to me this indicates that there is a clear division between—in most matters, between the FBI, which takes internal security, and the Agency, which is concerned with obtaining intelligence abroad, and occasionally doing such other things as higher authority may direct, which is our blanket cover for covert operations.

The gray area, I think, stems from the fact that the Director of Central Intelligence is responsible for safeguarding the sources and methods of intelligence, since agents and those who would take our secrets from us cross international boundaries, it becomes a somewhat gray area.

Ordinarily, it is fairly clearcut, and our people can hand over surveillance of someone we know is an agent and breaking the law and so on, or trying to, and pass them off to the FBI when he gets in our country. However, where, for example in this case, I suppose in my mind I surmised he was going to either talk to some radical fellow, or maybe a newspaperman, he had to conceal his identity. It was simply an interview. We have all kinds of interviews. We interview businessmen, we interview people in checking out the clearance of the CIA employees. So for this reason, and by the fact the White House had ordered it, I could not conceive this was an illegal act, and that at the most it might be in the gray area where if it turned out that the people that we were looking at, that Hunt was looking at and using some of our gear, if it should turn out there was a question as to whether they were violating the law, then it should be turned over to the FBI.

But after all, Hunt was not working for the CIA, he was working for the White House. We were only furnishing him with material which it is still hard to see was to be used in any illegal act when you come right down to it. I mean these are not burglar tools we are furnishing him. An identity which presumably could assist him maybe in staying out of reach of the police if he did something wrong, but could go on equally well with conducting this interview, as he claimed he was going to do.

So that is my interpretation of it. I think there is a gray area when it comes to this very spot we are in.

Mr. ARENDS. What bothers me as far as I am concerned, maybe the Director later on will want to go into a little more detail on it—

General CUSHMAN. I think Mr. Houston, with his long experience, may well have something to offer on it.

Mr. NEDZI. Mr. Fisher.

Mr. FISHER. I will be very brief, General. I want to say this. We read the newspapers. I have gotten a rather hazy idea of how the CIA was actually involved, and I think perhaps it has not helped the cause any with the manner in which the Hunt statement has been bandied around.

General CUSHMAN. I deliberately refrained from talking to the press at all since it turned up Monday, because I knew I was going to be testifying.

Mr. FISHER. I think very properly. You certainly satisfied me, you and Dr. Schlesinger, that the CIA should not be subjected to any criticism really for the involvement that has been referred to.

What you were doing was responding to a direction or request from the White House, from a man who had a responsibility in terms of national security that might be involved. It consisted of these physical items that he was allowed to obtain for use in what he described as elicitation of information from an individual whose ideology he was not entirely sure of.

Now, was there any effort made by anyone to find out who this mysterious individual was he was going to interview, or was that considered in the scope—

General CUSHMAN. No, sir. Perhaps I should have pressed a lot of questions, but he simply indicated he could not discuss it.

Mr. FISHER. I see.

General CUSHMAN. So I was faced with that.

Mr. FISHER. So you let it go at that.

General CUSHMAN. Only because of where I had received the order from.

Mr. FISHER. That is understandable.

Then it was later on, and before another agency inside your department, that G. Gordon Liddy entered the picture, without his actual identity being disclosed?

General CUSHMAN. Yes, sir.

Mr. FISHER. An associate or one who would assist or accompany Hunt on this mission he was talking about?

General CUSHMAN. Yes, sir, I had no dealings at all with him. As I recall, this was another one of the things that was disturbing. It seems to me they reported he was now bringing somebody else into the picture, which was not good, because nobody knew who that was. We knew who Hunt was. He had worked in the Agency for 20 years. Nobody knew who this other fellow was. We don't tell everybody in the world that we are in the business of passing out wigs and so on, to our agents, and that we have this capability. So as a matter of security as well of agency operations, which concerned me at that point when I heard that item.

Mr. FISHER. So when that was reported to you, of course that did cause you some concern about who this second party was who was entering the picture?

General CUSHMAN. Yes, sir. My recollection was these things occurred over perhaps a period of a week, and that the Technical Services people sort of saved them up. They got more worried and finally decided to call upstairs.

When they did, it altogether was just entirely, I thought, unreasonable, and I just thought it was time to close him out.

Mr. FISHER. It is fair to say for the record, then, the name Ellsberg was never mentioned in any of the dealings with the CIA?

General CUSHMAN. No, sir; I can state that categorically.

Mr. FISHER. You had no information and no reason to know or suspect who was being involved in the investigation or in the interview referred to?

General CUSHMAN. No, sir.

Mr. FISHER. Of course, to your everlasting credit, as soon as the matter developed further, and unreasonable requests were made later, you immediately cut him off and said you informed the White House the CIA would provide no further assistance to Mr. Hunt.

General CUSHMAN. Yes, sir. I thought this was the way to do it, because he was their employee, not ours. It wasn't up to me to call him and start giving him a third degree. I thought I would just send him back to his employer and state what we thought of him, which is what I did.

Mr. FISHER. That is all.

Mr. HÉBERT. Mr. Fisher has developed this. I want to get the accurate time element involved. I am reading from Dr. Schlesinger's testimony.

As a result, again according to Agency records, General Cushman telephoned Mr. Ehrlichman at the White House on 27 August 1971 and explained that further such assistance could not be given. Mr. Ehrlichman agreed.

Reading down further, however, the first time you refused to continue to cooperate with Hunt came on the 18th of August, when he asked for the secretary?

General CUSHMAN. Yes.

Mr. HÉBERT. The 18th.

Now, the Ellsberg psychiatrist break-in in the office occurred on or about the third of September. So you had completely divorced yourself and the CIA activity from any activity or association with Hunt from really the 18th of August?

General CUSHMAN. Yes, sir. As I recall, that specific request—I am trying to think now whether that came through this Technical Services Division—I guess it did. You know, they are not in the business of providing a secretary, but I think they probably relayed the message. We sort of acted separately and just said no.

It really looked like he was just trying to save money or something and get us to provide him a secretary instead of getting the White House to provide one. I said "No, we can't do it." It is sort of a different request than the others in a way, where he was looking for equipment.

Mr. HÉBERT. We must take the 18th of August date as reflected in Dr. Schlesinger's statement which reflects your action—

General CUSHMAN. Yes, sir; I don't think he got anything out of us after the 18th. I can't speak of my own knowledge.

Mr. HÉBERT. I don't expect you to. That relates to the September 3 date. It shows a 2-week period that you had disassociated yourself when the actual break-in did take place. So, using that as a premise, you are going to back up to your conclusion and make a statement the CIA aided in the rifling of Ellsberg's psychiatrist's office because it had previously supplied something that the man had worn, which we do not know—but, assuming he did—then to say by that

conclusion the CIA assisted, participated or helped in the raid on the psychiatrist's office is a little strained, I would say.

General CUSHMAN. Yes, sir, it is not correct.

Mr. HÉBERT. I am trying to develop these things because of the atmosphere. You have to check these things out and not let them go as headline statements by commentators. It is as well to say he was killed by a Colt pistol, so the Colt Co. participated in the murder. If they hadn't made the gun, the man wouldn't have killed with that gun. This is how fantastic some of these things are that are being fed to the public.

This is my interest in the matter. I wanted to clear it up and let the record show for itself what it really means.

General CUSHMAN. Yes, sir; I can state that unequivocally. There was no knowledge on my part or anyone as far as I know in the Agency, that there was a burglary going to be perpetrated.

Mr. HÉBERT. You take Dr. Schlesinger's statement here, they talk about cameras, a typewriter case, a cops and robbers case, depending on how you use the words. It is a tragedy. The mess is a tragedy; a partial tragedy maybe, but still a tragedy. It is being fanned and flamed and fueled by people who really don't have the interests of this country at heart, but are only interested in their own objectives.

Thank you, Mr. Chairman.

Mr. NEDZI. General Cushman, did you consider your activity proper under any other provision of the charter of the CIA beyond the one which requires the Director to protect sources and methods?

General CUSHMAN. No, sir. I simply considered that an interview was not in any way in violation of what we can do. We do hold interviews, of course, where, as I say, this is entirely different than trying to indulge in police work.

There is, I think, that area where we can do something and then turn it over to the FBI, if it turns out it is going to become such a case. But here, once again, we were once-removed from this, and we were asked to provide the accessory equipment, so to speak, which the White House employee was going to use.

So again it was a little different, I thought, than one of our people, if they had tried to do some police work.

Mr. NEDZI. I appreciate the tremendous pressure particularly a military man would be under when somebody representing the Commander-in-Chief in effect issued an order to him. On the other hand, I am troubled that you didn't look more deeply into the sources and methods question and the authority which the Agency had for getting into something like this.

I interpret the sources and methods provision as applying to sources and methods of Central Intelligence Agency. Is that your interpretation?

General CUSHMAN. Well, I regard it as the entire intelligence community, rather than just the Central Intelligence Agency. It is the Director of Central Intelligence who is charged with it, as I recall the words, so he would be concerned with, and I think, properly concerned with intelligence leaks which would put in jeopardy material which the intelligence community had obtained.

Mr. NEDZI. I will accept that.

That being the case, however, doesn't it seem unusual that you had that kind of problem, that a representative of the White House would not disclose to you what the nature is?

General CUSHMAN. No; I gathered that he had his orders not to. It came from somebody who in effect was the boss of both of us.

Mr. NEDZI. Doesn't that seem a little unusual, to hear a leak in your Agency presumably, or in the intelligence community over which you have some oversight and responsibility, and yet you are not being advised? That it is so highly sensitive you cannot be told about it?

General CUSHMAN. Well, he didn't, of course, say that. He simply said—first he was introduced as being an employee, a consultant on security affairs, and then he stated, when he came to see me as a followup to the Ehrlichman call, that he had a highly sensitive interview to conduct, and that—

Mr. NEDZI. That was the only grounds or justification for that interview—the Director's responsibility to protect sources and methods?

General CUSHMAN. He didn't use that. I had to, I suppose, do that mentally myself.

Mr. NEDZI. This is what you thought, and justified your own action along these lines. It does seem strange going through that kind of rationalization, that you shouldn't demand to know what it is all about.

General CUSHMAN. Well, I didn't get the opportunity in that he simply said he was not at liberty to discuss it. I had been ordered to assist him, and it certainly didn't sound to me as though it was overstepping any bounds at that time. It certainly later gave me cause for concern at the point, as I say, when I said no more.

Mr. NEDZI. Wasn't there concern on your part about the White House getting into this kind of business in the first place? Don't they have competent people in the FBI to handle these matters, in your opinion?

General CUSHMAN. Well, I didn't question that. Maybe I should have.

Mr. NEDZI. I guess that is a basic question. I don't know that anybody is going to know whether you should have or not.

General CUSHMAN. One doesn't ordinarily. As I say, I have known the people involved, and I probably was the most surprised of anybody to see how things have come out, because I had the highest respect for their integrity. It is also a habit in the military, you believe what people say. You are vulnerable when you are lied to, I guess.

Mr. NEDZI. I really think you are the victim of a terrible tragedy, General Cushman. I don't know how things can be turned around.

Could you tell us what kind of equipment specifically was given to Hunt in the first instance?

General CUSHMAN. Not of personal knowledge, but again I refer to Mr. [deleted] who I think knows exactly. But as I understood it, he got a social security card, some pocket litter, as it is called, some pieces of paper, letters or something that would substantiate the assumed name which appears on the social security card.

He, I believe, got some facial disguise—I mean a wig, whether he got some false teeth or not I am not sure. Then he apparently talked his way into getting a camera and a tape recorder, which as I say, to me, hasn't got much to do with the disguise.

May I read this in?

Mr. NEDZI. Yes.

General CUSHMAN. This has been kindly provided by the Director. He got a driver's license and alias documents issued—oh, no, that is 1960–1970 when he worked there. 1971, 23d of July, which was the first day after he had talked to me, he asked that these things be made available the following day. I OK'd it, told him to have my executive assistant call up the technical services people and tell them he was coming, so to speak.

Mr. NEDZI. In asking for these things specifically at that time?

General CUSHMAN. Sir?

Mr. NEDZI. Did he ask for these things specifically at that time?

General CUSHMAN. I think he just indicated he wanted to get the usual stuff to give him a change of identity, such as he used when he was in the Agency as an agent. Alias documents issued in the name of Edward Joseph Warren. Wig, glasses, and a speech alteration device, which is essentially some false teeth, on the 23d of July.

Then on the 20th of August, he came and in effect got a typewriter case and some business cards, and the typewriter case had a recorder in it. Five days later, on the 25th of August, he got the camera, and he did return that. He started asking for disguise for an associate whom he wanted named George F. Leonard, and at that point, the 27th of August, we stopped everything.

These last few, in other words, over a period of about 7 days, from the 20th of August to the 27th of August he started demanding things which led me to stop dealings with him.

Mr. NEDZI. What is a speech alteration device?

General CUSHMAN. I have never seen one, sir, but I think it makes the man that wears them lisp a little or something of that sort.

Mr. COLBY. Changes the tone of voice, Mr. Chairman. You put something in your mouth so it makes your voice sound a little different than it normally does.

Mr. ARENDS. This is a matter of great concern not only to our country but internationally, the matter of security. I can't see anything wrong in making this request of the CIA for assistance and help. Why shouldn't the Government, as a matter of national security, which could be a proven disaster—why couldn't they or shouldn't they have to ask for help from the CIA? There is no answer to that question to me yet. This is what really bothers me and gives me great concern.

I sort of implied from what you said some moments ago they should have gone to the FBI and not the CIA.

Mr. NEDZI. Mr. Chairman.

Mr. HÉBERT. Thank you, Mr. Chairman.

General, in renaming dates we are a little confused. In my recapitulation I said the 18th of August. Now it develops he did receive a camera on the 27th of August or the 25th of August.

Dr. SCHLESINGER. Twenty-fifth.

General CUSHMAN. The 25th of August, according to this.

Mr. HÉBERT. In other words, instead of the interim between the 18th and the alleged break-in on the 3d of September, you have that difference between the 27th of August to the 3d of September. But the 18th of August is the time of the refusal when he asked for a secretary?

General CUSHMAN. Yes, sir. It was handled, I believe, slightly different than the other equipment requests.

Mr. HÉBERT. I didn't want to be misleading or attempting to indicate something beyond the scope of the facts.

General CUSHMAN. Yes, sir. I would say through the 20th of August he asked for nothing that would not go along with having an interview. The 20th is when he got the recorder, and some business cards issued in this alias. Then on the 25th is when he started trying to bring in another man. He asked for the camera and he also—which is not shown on here—asked for telephone monitoring service, and on the 27th we refused all that. Actually it was only a matter of a few days that he was allowed to expand his demands beyond what I thought was a proper use of what the White House had asked him to get from us.

Mr. NEDZI. General Cushman, when were you apprised of this straw that broke the camel's back—the last request?

General CUSHMAN. Oh, it probably was I think on the 27th. I think I immediately picked up the phone, so to speak, to get Mr. Ehrlichman—it could have been the day before, on the 26th, but I just can't recall for sure. But it is obvious as I read this memoir, sometime between the 25th and the 27th because I made the phone call on the 27th, and the 25th was the first time he asked for gear or equipment which seemed to me to be a little peculiar.

Then the 18th was the secretary which I thought he was trying to shoehorn a secretary without having to pay for it, and I turned him down.

Mr. NEDZI. Why did you not contact him at that time?

General CUSHMAN. I don't know, sir. I don't know why he would either.

Mr. NEDZI. Well, in the light of what you consider to be Mr. Hunt's unreasonable request, why wasn't the request related then on the 18th of August?

General CUSHMAN. I thought he was being—certainly there was nothing remotely worrisome about him asking for a secretary. I thought he was trying to get a secretary out of the Agency and save having to pay for it out of the White House budget, or something. I simply turned it down as a separate matter.

Mr. NEDZI. On the 27th, you called Mr. Ehrlichman and advised him that in your opinion Mr. Hunt was of questionable judgment?

General CUSHMAN. Yes, sir.

Mr. NEDZI. What was Mr. Ehrlichman's response?

General CUSHMAN. I also said, I think in the same breath, that I wasn't going to be able to give him the support which he was requesting, and which of course Mr. Ehrlichman had wanted me to give, although I am sure he didn't know the details of what was being asked, and then I think he just said—

Mr. NEDZI. Did you give him the details at that time?

General CUSHMAN. Yes, I did. As I recall. I have no record of the exact wording. I will have to change that. I don't know whether I just said he is asking for things we don't feel we should supply, or whether I enumerated them. I am sorry, but I can't recollect that.

Mr. NEDZI. Did you tell him why you didn't think you should supply them?

General CUSHMAN. I called to his attention the fact that some of these things it looked to me might be used by Mr. Hunt to try to play policeman, and that we were not allowed to do that, as he knew, and therefore this caused me concern. Also, that he was very demanding. He was real, real hard to deal with, I was finding out, when they reported up to me what he had been asking, that he was doing it in a very arrogant and difficult way, and this to me indicated a lack of balance and judgment and also, trying to get secretaries out of me, and these other things. I tried to indicate to Mr. Ehrlichman this was the kind of fellow he had hired. I didn't know whether he knew it or not.

Mr. NEDZI. What was his response?

General CUSHMAN. His reply was "All right, I will take care of that." He let me off the hook, in other words, from supplying any more support.

Mr. NEDZI. At that point you felt no further obligation to furnish Mr. Hunt anything which he requested from you?

General CUSHMAN. That is right.

Mr. NEDZI. Were you aware of any further relationship with Mr. Hunt following this conversation with Mr. Ehrlichman?

General CUSHMAN. No, sir. In fact, I noted in the press this morning some inaccuracies. I was not aware of the preparation of a profile before, during or after the fact, and I only learned about it, as a matter of fact, yesterday, as I recall, and then I read about it in this morning's paper. I was afforded the opportunity of reading some of the testimony that went on by Dr. Schlesinger and Dr. Tietjen and Dr. Malloy before Senator McClellan's committee.

Mr. NEDZI. What kind of orders did you issue following the conversation with Mr. Ehrlichman?

General CUSHMAN. Oh, I told Mr. Wagner to call up Technical Services and tell them he had had it with Mr. Hunt, and not to accede to any more of his requests.

Mr. NEDZI. Did you notify anybody else?

General CUSHMAN. Mr. Helms.

Mr. NEDZI. Mr. Helms was notified?

General CUSHMAN. Yes, sir.

Mr. NEDZI. That day?

General CUSHMAN. I wrote a memo for the record and supplied it to Mr. Helms, and I believe, Mr. Chairman, you asked me to provide a copy for the record, which we will do. (See p. 9.)

Mr. NEDZI. You have no knowledge of the providing of certain unclassified materials from CIA files to Mr. Hunt in October of 1971?

General CUSHMAN. No, sir, I have no knowledge of that either.

Mr. NEDZI. You don't know who the Agency officer was who did this?

General CUSHMAN. No, sir, I don't.

Mr. COLBY. [Deleted], Mr. Chairman.

Mr. NEDZI. Was anybody else notified besides Mr. Helms about your conclusions with respect to Mr. Hunt?

General CUSHMAN. No, sir, just Mr. Ehrlichman, Mr. Helms, and of course the people who had been providing the services, Mr. [deleted] got the word from my executive assistant, Mr. Wagner.

Mr. SLATINSHEK. One question, Mr. Chairman.

General Cushman, you are aware of course that Mr. Schlesinger said in his statement that at a staff meeting you indicated that you had received a call from Mr. Hunt. This became a matter of record. Would you tell the committee what this staff meeting consisted of and why you mentioned that in the staff meeting?

General CUSHMAN. Yes, sir, this was a 9 o'clock meeting every morning at which about 9 or 10 of the principal officers of the Agency met with the Director to inform him of things of interest that had come up in their particular area during the preceding day, things that they were planning on doing during the coming day, or perhaps a week ahead.

And the Director then also issued guidance as to what he wanted done and so on, it was a morning affair.

Mr. SLATINSHEK. In other words, matters which are unusual and of special interest are mentioned at that meeting?

General CUSHMAN. Yes.

Mr. SLATINSHEK. You don't recall Mr. Helms ever mentioning the request that he had received for personal investigation on Mr. Ellsberg?

General CUSHMAN. No, sir, not that I am aware of.

Mr. SLATINSHEK. You were not aware of the request to the Agency as you testified to a little earlier?

General CUSHMAN. That is true, sir.

Mr. NEDZI. Did you say there was an answering service provided for them?

General CUSHMAN. The phone call was from Ehrlichman. Mr. Colby said there was a slip of the tongue.

Mr. SLATINSHEK. I meant Ehrlichman.

General CUSHMAN. Ehrlichman is what I meant too.

Mr. SLATINSHEK. I am sorry.

General CUSHMAN. The call was from Ehrlichman saying Hunt had been hired.

Mr. SLATINSHEK. Right.

Mr. NEDZI. Let me understand the answering service. Was any such thing provided to Mr. Hunt?

General CUSHMAN. No, sir.

Mr. NEDZI. An unlisted telephone number?

General CUSHMAN. No, sir. We gave him an unlisted phone number by which he could call our Technical Services Division people. That was one of our numbers.

Mr. NEDZI. That was one of your numbers?

General CUSHMAN. Yes, sir. But we did not provide him with one out in town someplace, no, sir.

Mr. NEDZI. Did you discuss this matter with Mr. Helms in the course of this Hunt matter or was the only contact as far as Mr. Helms is concerned the initial appraisal of your call with Mr. Ehrlichman and subsequent memo?

General CUSHMAN. It is my recollection, sir, that I did mention to him a couple of days after Hunt had been to see me that he had been to see me and had requested, relayed to me the White House wanted him to have this White House identity business and I told them to go ahead and give it to them.

As I recall there was no discussion. He nodded his head. That is the best of my recollection. It is very clear, of course, I wrote him a memo for the record when we closed this off. And I could be wrong on telling him, I will have to say. It is my recollection that I did.

Mr. NEDZI. Was the material provided to Hunt ever returned?

General CUSHMAN. He did not return the tape recorder, as I recall. He has still got it, I guess. He only returned the camera.

Mr. NEDZI. Was there ever a request made of the Agency to provide Hunt with the name of a locksmith?

General CUSHMAN. No, sir, not to my knowledge.

Mr. NEDZI. Mr. Hogan, do you have any questions?

Mr. HOGAN. I have one question, thank you, Mr. Chairman.

General, to your knowledge while you were with the CIA was the CIA regularly involved in domestic interviews?

General CUSHMAN. Well, yes, sir, but these are interviews for determining the security clearance of employees. Naturally recruiting interviews for hiring people. And finally, those businessmen who have been abroad and wish to volunteer to tell us the economic intelligence of the country in which they had business dealings.

Mr. HOGAN. The domestic interviews?

General CUSHMAN. We do those all the time. The ones you are referring to would be something similar to this. I don't recall in my 21½ years or so there of any other coming up that I knew about.

Mr. HOGAN. Aside from the routine interviews for security checks, background interviews, and so forth, and employment interviews and with people coming back from overseas. But this type of thing, you are saying it wasn't the type of activity that the CIA is normally involved in?

General CUSHMAN. No, sir.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. NEDZI. General Cushman, I think that is the extent of questions which we wish to ask you at this time. I want to thank you very much.

General CUSHMAN. I appreciate your consideration letting me get to the next committee. Thank you, sir.

Mr. NEDZI. I understand Dr. Tietjen would like to make a statement.

Dr. SCHLESINGER. Do you want me, Mr. Chairman?

Mr. NEDZI. We hope to be brief.

Dr. SCHLESINGER. Yes; indeed.

General CUSHMAN. Thank you very much.

Dr. SCHLESINGER. Mr. Chairman, we would like to amplify the record at this point. You asked General Cushman whether or not Mr. Hunt had requested the assistance of a locksmith, and General Cushman responded that he did not know of any such thing or recall anything.

I think we would like to indicate that Mr. Hunt did wish to obtain the address of a locksmith.

Mr. COLBY. We had a locksmith who worked for the Agency named [deleted]. He retired from the Agency in about April 1971. He requested the help of our out-placement people in preparing a résumé of his capabilities, something fairly sensitive, but included in it was this lock-picking capability.

Mr. Hunt, who himself had also used this same out-placement service of the Agency when he had retired, inquired of that office several

times regarding retired Agency personnel who might be qualified in the security field. And he was just given the same résumés of various people in this field. Mr. [deleted] name was included as one of these.

Mr. NEDZI. Is that list available to anybody?

Mr. COLBY. Well, pretty much so, yes. These are individuals who have retired from CIA. They prepared a résumé which we have reviewed for classified information, so that it doesn't have any classified information. If somebody wants a résumé of somebody, or if they want to find out if somebody might be a good employee, they will get that résumé.

In other words, it is an attempt to help some of our retired people get a job.

Mr. NEDZI. But is it available to anybody?

Mr. COLBY. Yes.

Mr. NEDZI. There is nothing unusual about it.

Mr. COLBY. No. Oh, no, this wasn't a favor for Hunt in that respect, no; not at all.

Mr. NEDZI. Which one of you doctors was in charge of the particular project?

TESTIMONY OF JOHN R. TIETJEN, DIRECTOR OF MEDICAL SERVICES, CIA, ACCOMPANIED BY DR. BERNARD M. MALLOY

Dr. TIETJEN. I was.

Mr. NEDZI. Doctor, could you tell us when you first became aware of your assignment?

Dr. TIETJEN. Yes. It was on the 29th of July that the director of security, Howard Osborn, came to see me. He said that a Mr. David Young in the White House somewhat recently appointed was his counterpart in security, and that he had requested that a personality profile be accomplished by the Agency on Daniel Ellsberg.

Mr. Osborn, in telling me this, advised that he received this request with some reluctance, and that he discussed it with Director Helms, and as I recall, who felt likewise.

However, the argument was used that we are expert in such matters. There is no place else to go in Government to get this done. And the importance was worthy of consideration. Mr. Osborn advised me the Director had agreed to this, and that we were to proceed with a profile.

Mr. Osborn also provided us with some material. As I recall, excerpts from the media and some biographic information from the State Department and Department of Justice. In receipt of that request, we proceeded—contacted Dr. Malloy, advised him of this requirement, and we decided to put together a psychiatric profile.

Mr. NEDZI. This data was given to you on the 29th of July?

Dr. TIETJEN. Yes, it was. We did put together a profile. This was accomplished primarily by a [deleted] who is a member of Dr. Malloy's staff and reviewed by Dr. Malloy and [deleted] who is a deputy of our office and myself, and I took a duplicate copy of this and showed it to Mr. Osborn, the director of security, who thought it was an acceptable document.

Mr. NEDZI. What was the date of this?

Dr. TIETJEN. August 10.

Mr. NEDZI, August 10.

Dr. TIETJEN. But then I took a duplicate copy to my immediate supervisor, [deleted] and showed it to him. [Deleted] is also Mr. Osborn's supervisor. Mr. [deleted] advised that if I preferred the profile could be sent directly to the Director, and I indicated I would prefer to return the profile—the requirement through the channel from which it came.

And so I had delivered a final profile to Mr. Osborn. He and I understood that on delivery that he would route it to the Director. The date of delivery to Mr. Osborn was the 11th of August. This first paper did not satisfy the White House, and a phone call was received from Mr. Osborn to me advising of that fact and requesting that Dr. Malloy meet with members of the White House staff, and I so advised Dr. Malloy.

Dr. Malloy did meet with Mr. Young on the 12th of August, and on return from that meeting advised me that he had met there also Mr. Howard Hunt, and a gentleman that he had documented in his diary, or memorandum for the record, as a Mr. Linny, which we subsequently identified as Mr. Liddy.

There were several other meetings after that period with Dr. Malloy, Mr. Hunt, Mr. Liddy, Mr. Young, and the import of that was to request a second profile for which additional information would be provided. It was outlined to them that in order to produce good material, you needed good material to work with.

Sometime later Dr. Malloy advised that he had received additional material, and that material was seen by [deleted] and myself. It came through the Agency mail system, from the White House, and it contained additional biographic information that was of Government origin, and at no time was there any psychiatric information furnished us.

During this period of time we had concerns about this requirement. These concerns varied. Some of these concerns were professional concerns.

We had not done a psychiatric profile on an American citizen under such circumstances previously.

The professional concerns amounted to the limitation of data on which we could base good professional judgments, on our inability to use our peers as consultants to help us do this. We had other concerns which we voiced later that had to do with a wonderment about legal implications for the Agency and for ourselves.

And we expressed these concerns from time to time to Mr. [deleted] our supervisor. I should point out there was a period I believe of about a month in which we had no further word from the White House during which time we hoped the matter had cooled off and they had lost interest. But there was renewed indication of interest. I believe a note to Dr. Malloy wondering when the second profile would be produced.

There was a meeting with Mr. [deleted] our supervisor, in which we suggested that Dr. Malloy meet with these gentlemen to advise them that the material received for the second profile was not of much more help than the first material, and that it would be not much more adequate in terms of our report.

That meeting was held, and that thought was conveyed, but they still wanted the second profile. So we agreed to proceed to prepare the document, which we did. We came down to the final time of decision, and Dr. Malloy and I met once more with our supervisor, Mr. [deleted] and expressed our concerns again.

He indicated, at that time, that he would convey our concerns with the document to the Director. Dr. Malloy and I went back to our offices and met with [deleted], my deputy, and then we went over the matter one more time. I instructed [deleted] and Mr. Malloy to come up with a note which we could affix to these profiles which would state our final position, and with slight amendment I then dispatched the new profile and the old profile, the first profile, as a reference document with the transmittal note of our question—

Mr. NEDZI. Could you provide a copy of that transmittal note?

[In committee files.]

Dr. TIETJEN. Yes, we can. The two documents and the transmittal note went then to Mr. [deleted] I can give you those dates specifically. The note was November 8. On November 9 Mr. [deleted] sent his note along with mine and the two profiles, at least his note is dated November 9, to the Director.

And there is a letter from the Director to David Young dated November 9, 1971, on this same subject. Transmitted back to me were the two profiles, my original note, Mr. [deleted] transmittal note, and a Xerox copy of the Director's letter to Mr. Young.

During that period, interim period, I had been phoned by Mr. [deleted], and it was my understanding that we were not to deliver the paper to Mr. Young unless these come-back documents had arrived, and when they did I then instructed Dr. Malloy to deliver the second profile to Mr. Young, which was done.

I have only one other comment—

Mr. NEDZI. When was that done, Doctor?

Dr. TIETJEN. The 12th.

I have only one other comment, and that is I tend to believe our contributions were not particularly useful for the purposes intended.

Mr. NEDZI. What were the purposes?

Dr. TIETJEN. We don't know. But since we did not receive additional indication of interest, or any additional requests, or any followup, it came to die on the vine, we have to assume the matter died with that second document.

Mr. NEDZI. Why was the first document considered unsatisfactory?

Dr. TIETJEN. When the director of security advised me of the requirement that conveyed his uneasiness and reluctance, and that of the Director's didn't do a great deal to make us feel comfortable. We prepared a document that was very general in nature, hoping that this would satisfy their needs, and we furnished that document.

Apparently it was too general for their needs, or their interests.

Mr. NEDZI. Was the subsequent document any better, in your judgment?

Dr. TIETJEN. In my judgment, the second document which was the product of Dr. Malloy—he is the author of the second profile—but it was reviewed by [deleted] and myself, just the three of us. [Deleted] has psychiatric training also, I do not.

But in my opinion I think it is a good document. I think it is the best we could have done under the circumstances.

Mr. NEDZI. Were you present at any meetings with Mr. Young, Mr. Hunt, or Mr. Liddy?

Dr. TIETJEN. No, I was not.

Mr. NEDZI. Before we go to any further questions, Dr. Malloy, do you have any contribution you want to make at this time? Is there any statement you would like to make?

Dr. MALLOY. The only thing I would say, Mr. Chairman, is that we severally expressed concern and apprehension on the first receipt of this request through Mr. Osborn. My concern was greatly heightened at the time we were informed that the first effort was not satisfactory, and at which point I was instructed to visit, to attend a meeting with Mr. Young and his associates in the Executive Office Building.

At that meeting my concern was heightened because of the information, the background information which they provided to me. The information that they gave me was to the effect that they wished to try Dr. Ellsberg in public. They gave me information that the President was aware of a multifaceted approach to deal with the problem of security leaks, and that a psychiatric study would be one facet of this overall approach.

They also gave me to understand that this was of the greatest priority, and was even of higher import than the SALT talks, and there was concern expressed about Dr. Ellsberg's possibly having this information, having other documents which would periodically be leaked, and in that way would jeopardize ongoing SALT talks matters.

In addition to that, I was concerned about Mr. Hunt's conduct. At the termination of the meeting he lingered behind and asked me not to let anyone know at the Agency that he had attended this meeting.

Mr. NEDZI. This meeting was held on what day?

Dr. MALLOY. On the 12th of August, 1971.

On my arrival back at the Agency, I telephoned Mr. Hunt and I gave him to understand that I appreciated his concern in view of the sensitivity and so forth, but that it would be necessary for me to convey this information to my supervisor.

Mr. Hunt was concerned about this, and stated that he had adequate contact with General Cushman, and that Mr. Helms was aware of his association at the White House, and that it was not necessary. He also was very concerned about the director of security being aware of his association at the White House.

I told him I could appreciate his concerns and I could pass on to my supervisor his request. Mr. Hunt asked me in addition to this, he said to me he wanted me to treat this as medically confidential information. I wasn't exactly sure what he meant, and he wasn't very much able to clarify that.

So we were very concerned to say the least. We certainly discussed this information. Dr. Tietjen passed this along, and we reviewed additional data which was provided to us in the next few days by Mr. Young and his associates.

We had a meeting then with Mr. [deleted] and that I believe was on the 20th of August—yes. On the 20th of August Dr. Tietjen and I had a meeting with Mr. [deleted] and at that time we advised him that the additional data which had been provided allowed us to make

a few more comments or come to a few more ideas, but that it really furnished no basis for any comprehensive kind of a study.

We again expressed our anxiety and concern, and it was decided that the best way to proceed would perhaps be to convey this orally to these gentlemen, and perhaps at that point the whole situation would be laid to rest. There was another point in that meeting that was important, and that was that it was decided that under no circumstances would we accept any requirement to interview the former Mrs. Ellsberg.

In this August 12 meeting Mr. Hunt had stated that Mrs. Ellsberg, the first Mrs. Ellsberg, was available, and that she would be very willing to talk with us, and as I remember it he said that we could easily arrange that under an operational alias.

So on the 20th of August we decided that this would not, under any circumstances, be accepted. It was then a few days later, on the 23d of August, that I telephoned Mr. Young and he said Mr. Hunt would be getting in touch with me. I didn't hear from Mr. Hunt until the 30th of September, and I wasn't anxious to hear from him, and we didn't hear from him for about a month then, and at that time Mr. Hunt arranged a meeting for us to be held on the 27th of October.

At that time I again went to the White House Executive Office Building and gave them the basic conclusions that there was really very little more that we could provide. We were requested, however, to provide a written document again, and I returned and duly reported this to my supervisors, and we did then prepare a second document which was subsequently forwarded as Dr. Tietjen has outlined.

Mr. NEDZI. When was the last time that you met with Mr. Hunt?

Dr. MALLOY. Twelfth of November, 1971.

Mr. NEDZI. Were you aware of Hunt's relationship with General Cushman?

Dr. MALLOY. No, sir.

Mr. NEDZI. Except through his statement that he had been dealing with General Cushman?

Dr. MALLOY. Yes, sir.

Mr. NEDZI. Dr. Tietjen, you stated that you were concerned because of your inability to use peers as consultants. Why was there an inability?

Dr. TIETJEN. Because we understood this to be a very sensitive matter, and one to be closely held, and we felt it inappropriate to bring in helpers.

Mr. NEDZI. Could you describe for the benefit of the record what a personality file is? What purpose does it serve?

Dr. TIETJEN. We really don't use the term "personality profile" to identify our work. We use the term "personality studies."

The term "personality profile" we have used in this instance to indicate something quite short of what we customarily produce. If the chairman would wish, I could proceed and talk about personality studies. We gather biographic information—I say "we"—the Agency gathers biographic information on individual of interest.

This biographic information is organized and studied by members of our psychiatric staff. We really seek out a great deal of information. The information that is customarily available just in documents and records for the most part isn't grist for our mill. We need informa-

tion regarding attitudes and behavior and performance to give us some insight into the personality that we are regarding.

We try to bring to bear our professional capabilities, and we use consultants from the outside to help us. We also relate our findings as we make progress in one of these studies. It takes time to do a good study. We relate our progress as we go along, and check our material carefully with those who may be familiar with the individual for other reasons that is within the Agency—our analyst, for example, would know something about it from a different viewpoint, not from our discipline viewpoint.

Mr. NEDZI. Is such material available for Ellsberg?

Dr. TIETJEN. The material on Ellsberg was scanty material.

Mr. NEDZI. I should say information from other people in the Agency.

Dr. TIETJEN. Not to my recollection.

Dr. MALLOY. There was one FBI report.

Dr. TIETJEN. He said within the Agency.

Dr. MALLOY. At that time.

Dr. TIETJEN. Anybody within the Agency was the question.

Mr. NEDZI. You mentioned, Doctor, in the course of preparing these studies you contacted other sections of the Agency.

Dr. TIETJEN. No. We did not.

Dr. MALLOY. No.

Dr. TIETJEN. When we feel that our work is ready for publication, we so submit. The final study may be used for a variety of purposes. The main thrust of the study is to contribute some deeper understanding of the individual who is of interest to the organization, or to a community, as the case may be.

The State Department at times has been interested in personality studies that we might produce. So, it is a matter of adding a dimension of understanding in terms of a foreign individual. This individual in our area would be a senior political figure.

Mr. NEDZI. Doctor, can you speculate on why the White House would want a study of this sort on Daniel Ellsberg?

Dr. TIETJEN. Well, we wondered ourselves. That point wasn't really completely clear. By speculation, refreshing my memory, some things have been told me and some things I have read. First of all, Mr. Hunt knew we did personality studies, and inasmuch as Mr. Young was newly appointed, and it turns out Mr. Young and Hunt later perhaps thought this would give them some dimension in their understanding of Mr. Ellsberg.

I am aware in the press—I believe I am aware from the wealth of material in the press that Mr. Hunt has talked about Mr. Ellsberg's prosecutability. Whether that has any relationship to his intactness or not. I don't know what that term would mean.

But this has some meaning apparently for Mr. Hunt.

Mr. NEDZI. Was there any implication where they might secure additional data on Mr. Ellsberg at the time the first profile was rejected?

Dr. TIETJEN. I do know that Dr. Malloy in his comment of the other day, and in responding to their interests in the second profile identified to them the type of material that would be of interest to us in the type of work that we do in studies.

I could defer to Dr. Malloy at this point.

Mr. NEDZI. Doctor.

Dr. MALLOY. Yes, sir. I would like to be sure what your question is, Mr. Chairman, again, if you would just restate it.

Mr. NEDZI. Whether there was any implication as to the type of material which might be provided in order to improve on the first profile.

Dr. MALLOY. Yes. I gave these gentlemen to understand we would be interested in any information or data concerning Dr. Ellsberg's early life, his childhood, information concerning his progress through life, that this would be of interest and of importance to us.

As I remember it, Mr. Hunt, or maybe Mr. Liddy, or both, suggested maybe school records, yearbooks from college, and so forth and so on. And I didn't disagree with that. I would see that that might be of some help. And I believe it was in that context that the suggestion was made that we could interview the first Mrs. Ellsberg.

So, it was a general discussion against this background of anxiety that we had, that this was indicated.

Mr. NEDZI. Was there, in your first profile, any indication that Ellsberg had been under the care of a psychiatrist, or had consulted a psychiatrist?

Dr. MALLOY. I don't remember for sure, but I think not.

Mr. NEDZI. Was there an awareness on your part that he had had this kind of treatment or care or consultation?

Dr. MALLOY. At the time of the first effort?

Mr. NEDZI. Yes.

Dr. MALLOY. I don't believe so. I can't be certain about that. But I would think not.

Mr. NEDZI. Was there any discussion on anybody's part about obtaining his medical record?

Dr. MALLOY. No, sir.

Mr. NEDZI. That wasn't suggested by anybody in your conversations?

Dr. MALLOY. No, sir.

Mr. NEDZI. Dr. Malloy, you stated earlier—and I didn't quite understand the statement—that the President was aware of a multifaceted effort of some sort. Would you amplify on that statement, please, having been voiced, I believe, by Mr. Young?

Dr. MALLOY. Yes, sir. It was my understanding that there was great concern about the leakage of security information, and at this time, in August 1971, there had been the recent disclosure of these Pentagon Papers by Ellsberg. There was, as I understood it, a comprehensive effort mounted or being mounted to study this problem. It was not certain, as I understood it from these gentlemen, whether other people might be involved or not, and there was a good bit of anxiety that there were other papers yet to be disclosed.

So that my understanding was that this was an overall effort directed at dealing with the matter of security leakage, and an effort was being made to study the case of Ellsberg in particular as a part of this overall problem, and that the case of Ellsberg was being approached from a number of different directions. That was my understanding.

Mr. NEDZI. And that the President was aware of these directions, according to Young?

Dr. MALLOY. So I was told.

And Mr. Ehrlichman and Dr. Kissinger.

Mr. NEDZI. Anybody else?

Dr. MALLOY. I don't recollect any other names specifically.

Mr. NEDZI. Doctors, am I correct in assuming in essence all of the information you are presenting to the subcommittee today was given to the Senate committee the other day?

Dr. TIETJEN. Yes, sir.

Dr. MALLOY. Yes, sir.

Dr. TIETJEN. That is correct.

Mr. NEDZI. Do you have any questions, Mr. Chairman?

Mr. HÉBERT. No questions.

Mr. NEDZI. Frank?

Mr. HOUSTON. One small point. You specifically requested a memorandum from Dr. Tietjen to Mr. [deleted]. I suggest the record to be complete would also have Mr. [deleted] memorandum to Mr. Helms and Mr. Helms' letter to Mr. Young. We would be glad to submit that.

Mr. NEDZI. I appreciate that contribution. I think it is essential that Mr. Helms testify, and we have all of the facts in the record.

Mr. SLATINSHEK. Mr. Chairman.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. I don't know whether Dr. Malloy or Dr. Tietjen have prepared statements from which they spoke. If you do, would you object to putting them in the record so we make sure we have all the essentials relating to this question?

Dr. TIETJEN. I spoke from memory, but I would be glad to provide you with an affidavit that I have already prepared.

Dr. MALLOY. I also have an affidavit.

[The following information was received for the record:]

STATE OF VIRGINIA,
County of Fairfax, ss:

AFFIDAVIT

I, John R. Tietjen, M.D., being first duly sworn, depose and say:

1. My participation in providing two psychiatric profiles on Daniel Ellsberg to the White House began when Howard Osborn, the Director of Security came to see me on the 29th of July 1971. He stated that a Mr. Young of the White House staff had requested that the Agency do a personality study on Dr. Ellsberg. It is my recollection that it was with considerable reluctance that the Director agreed to this request and that I was so advised at that time by Mr. Osborn. I passed this requirement to Dr. Malloy, Chief of our Psychiatric Staff who, in turn, discussed it with his Deputy, Dr. Robinson, and a staff member, Dr. [deleted]. A quick, brief draft was prepared from material provided by Mr. Osborn from the White House, together with excerpts that we gathered from the news media. The final draft was cleared with Mr. Osborn and with [deleted] and the profile in final form was delivered to Howard Osborn. It was understood that he would route the paper to the Director.

2. This first paper did not satisfy requesting authorities at the White House. Dr. Malloy was invited to White House offices where he first learned that Howard Hunt, a former Agency employee, was an interested White House participant. I can recall Dr. Malloy reporting back to me his general uneasiness about the participants, David Young, Howard Hunt and a Mr. Linny (Liddy). Among other things, they seemed to us to put an undue store on what psychiatry might do and what we might produce. Our uneasiness was discussed with [deleted].

3. Sometime later Dr. Malloy advised that he had received some new material from the White House. I saw this material, which was biographical, and seemed to be of Department of Justice origin. This new material was judged not to be particularly more helpful than the first. At no time did we receive any psychiatric material.

4. On 15 October Dr. Malloy and I briefed Mr. [deleted] and advised him that this additional material had been received with a note expecting a full report from us. As a result of that meeting, we attempted to fend off a second paper by advising the White House participants that the new material did not add much to our previous information and that no study in depth would be forthcoming. I recall that the White House still wanted some final paper. Dr. Malloy then put together a paper which, after review by [deleted] and myself, became the second psychiatric profile. The earlier paper and the second profile were forwarded to the Deputy Director for Support, together with a note of transmittal, dated 8 November 1971. Our note expressed our concern and the view that the Director should have the opportunity to review the material and offer comment.

5. On 9 November I was advised by a telephone call from Mr. [deleted] that the material had been reviewed and that we should proceed to set up a meeting with the White House recipients to deliver the second profile. I conveyed this message to Dr. Malloy who proceeded to set up the meeting which I believe was held on the 12th of November at the White House. During the interim period we received back from Mr. [deleted] office the two profiles, along with my original transmittal note, Mr. [deleted] original transmittal note to the Director and a Xerox copy of a letter from the Director to Mr. David Young, dated 9 November 1971 in regard to the matter.

6. It is my view that the White House recipients of our efforts did not find our contributions particularly useful for their purposes. At least we received no other requests.

JOHN R. TIETJEN, M.D.

Subscribed and sworn to before me this 9th day of May, 1973.

J. HELEN CONNOR,
Notary Public.

My commission expires March 15, 1977.

STATE OF VIRGINIA,
County of Fairfax, ss:

AFFIDAVIT

I, Bernard Mathis Malloy, being first duly sworn, depose and say:

1. I was born on 2 September 1928, was graduated from Lambuth College, Jackson, Tennessee, and Vanderbilt University School of Medicine, Nashville, Tennessee, and have been employed by the Central Intelligence Agency since November 1958. I have been in the Psychiatric Staff of the Office of Medical Services of the Agency since that time.

2. In the summer of 1971 the Medical Office was approached by the Director of Security concerning the preparation of a psychiatric study on Daniel Ellsberg, who had been accused of leaking the Pentagon papers. To the best of my recollection, it was my understanding from the Director of Medical Services that the DCI was knowledgeable and had approved the Director of Security's visit and the request that was being made of the Medical Office. There was general reservation and concern expressed about such an effort involving as it did potentially controversial and highly speculative efforts. It was felt that such activity, involving as this did an American citizen, might be outside of the Agency's purview. It was recognized that such efforts, while desirable in some quarters, could be misunderstood, misinterpreted, and mistakenly considered to have been derived from the doctor-patient therapeutic relationship which was in fact far from the case. An initial effort was prepared by [deleted] under the direction of myself based upon a review of magazines and newspaper articles containing biographical data about Ellsberg, as well as some FBI documents consisting of interview reports by informants about Ellsberg.

3. On 12 August 1971, on instructions from the Director of Medical Services, the writer met with Mr. David Young, Room 16, Executive Office Building, to discuss the matter of a psychiatric write-up on the case of Daniel Ellsberg. Mr. Young, at the time the appointment was made, had stated that there was more information which he wished to discuss. The meeting lasted for approximately an hour and Mr. Young was joined by a Mr. Linney (probably Liddy), who seemed to be an assistant. Mr. Young stated that the Ellsberg study had the highest priority and had been requested by Mr. Ehrlichman and Dr. Kissinger. Mr. Young also stated that the President had been informed of this study. He

stated that it was a multi-faceted approach and the psychiatric report would be only one facet. He stated that he understood that the Agency was uneasy about undertaking such a study and assured me that there had been no delineation as to how information derived from the study would be utilized, and if there were any utilization that great care would be given to make it nonattributable to the Agency. Mr. Young was interested in knowing what kind of data would be needed in order to provide further study of the sort done "on Fidel Castro." Later on Mr. Howard Hunt joined the group. Mr. Hunt recognized me, being a former Agency employee, and we greeted cordially. Mr. Hunt amplified on Mr. Young's comments and stated it was his wish to "try Dr. Ellsberg in public." Other comments were made by Mr. Hunt or "Mr. Linney" to the effect that the aim would be to render Dr. Ellsberg ineffective or to make him the object of pity as a broken man. Mr. Hunt stated that he wished to see data of the sort that "psychiatrists found out about Barry Goldwater in 1964," and he expressed interest in being able to refer in a knowledgeable way to Dr. Ellsberg's oedipal conflicts or castration fears and other similar points.

4. It seemed from Mr. Young and "Mr. Linney" that there was considerable concern that Dr. Ellsberg had a great deal more sensitive information which it was feared he would from time to time periodically expose. "Mr. Linney" stated that Dr. Ellsberg thought of himself as "having the white hat and the President as having the black hat."

5. A discussion was held with the group concerning the dangers of preparing such a study in isolation and without the opportunity for the free give and take discussions among experts, as had been the case in our other studies. I was informed that more biographic material was available. I was requested to give examples of the kind of information needed. I pointed out that insofar as possible, "although possibly not available," data from early life from nurses or close relatives would be useful. I agreed with "Mr. Linney" that school progress, including testing, would be helpful. In the same way, year books, his years in college and in the military, comments from friends would be helpful. Mr. Hunt also stated that it would be useful for Dr. Ellsberg's first wife to be interviewed and he felt, "You can easily arrange that under an operational alias." It was pointed out that the first Mrs. Ellsberg would be cooperative.

6. Information was also offered by Mr. Hunt or "Mr. Linney" to the effect that Dr. Ellsberg had been in analysis although times or location were not known for certain. "Mr. Linney" pointed out that after Dr. Ellsberg gave the Pentagon Papers away, he telephoned his analyst stating, "Now I am free."

7. "Mr. Linney" and Mr. Young, with Mr. Hunt's assent, pointed out that the Ellsberg study was of the highest priority, even over the SALT negotiations. It was agreed that the further biographic information regarding Dr. Ellsberg would be sent to us and Mr. Hunt agreed to manage this. Mr. Hunt would also make arrangements whereby periodic conferences would be held as necessary. Mr. Hunt did, however, offer that he did not wish to come out to the Agency if he could avoid it.

8. At this point Mr. Hunt made some comments in the presence of the group based on his previous acquaintanceship with me and he remained behind and made some further comments expressing a desire that his presence and participation in the meeting not be mentioned at the Agency. After arriving back at the Agency I informed Mr. Hunt by telephone that it was not feasible for me to avoid reporting Mr. Hunt's presence at the meeting. Mr. Hunt expressed great regret that this was necessary, stating that he had adequate contact with General Cushman and was on good terms with the Director. He was reluctant in agreeing to my statement that it was necessary to inform the Director of Medical Services. Mr. Hunt wished to know if this could be treated as confidential medical information, but could not tell the writer in what way. I discussed the entire situation—the dangers and the reservations and the gravity of the situation with the Deputy Chief, Psychiatric Staff, the Director and Deputy Director of Medical Services.

9. On 13 August 1971, additional information was received from the White House. To the best of my knowledge this was from Howard Hunt and consisted of poorly Xeroxed classified FBI reports and Department of State documents. This material provided additional data and on 20 August 1971 the Director of Medical Services and the writer met with the Deputy Director for Support concerning the White House request in the Ellsberg case and the continuing pressure and desire for a psychiatric study. The problems associated with developing the study and our continuing reservations were discussed in detail. In view of Mr.

Hunt's enthusiasm, concerns existed about the checks and balances to actions based on a study if one were to be undertaken. To the best of my recall the Deputy Director for Support was in agreement with us. While the additional information furnished further suggested that Ellsberg was under emotional pressure it was not possible to arrive at any firm conclusion or comprehensive understanding of the man's personality. The additional information indicated that:

(a) He had revealed quasi-Secret Information while still in the service when he was applying for a Ph. D. fellowship.

(b) He had volunteered for Vietnamese service for the State Department in 1965 while under the stress of obtaining a divorce from his first wife.

(c) He had sought psychoanalytic treatment between the fall of 1968 and 1970 with a psychoanalyst (who was determined to be professionally qualified and reputable) in California.

(d) He may have been involved in leaking information about a South Vietnamese in 1970 while he was actually in psychoanalytic treatment.

To the best of my recollection it was agreed that the implications of the above data would be orally discussed by me with Mr. Hunt, Mr. Liddy and Mr. Young. It was also agreed that there would be the greatest reluctance to undertake any interview of the former Mrs. Ellsberg, and it was hoped that after this a written document would not be necessary.

10. The Deputy Director for Support considered advising the DCI, but it was decided that I would first visit Mr. Young and inform him that the additional material basically provided for no further understanding. It was hoped that this would put an end to the situation, but if further material was forwarded the matter would have to be dealt with at that time.

11. The Deputy Director for Support stated that after the meeting with Mr. Young, the DCI would be brought up to date.

12. Following the meeting on Friday, 20 August, and in accord with the discussions on that date, a call was placed on Monday, 23 August, to Mr. David Young at the White House. Mr. Young was informed that we had received the material which had been forwarded and that we had considered it, and would be available to discuss the data further. Mr. Young stated that he would have Mr. Hunt call me. He stated that Mr. Hunt's office was elsewhere in the building and he did not have his number immediately available. As of 27 August 1971 Mr. Hunt had not called me.

13. On 30 September 1971, there is a yellow memorandum of a telephone call to me from David Young at the White House with the message that Mr. Hunt suggested meeting Wednesday, 27 October, at 11:00 a.m. On 12 October 1971 I received some more data from Mr. Hunt at the White House.

14. On 27 October 1971, I met with Mr. Hunt and with Mr. Liddy and with Mr. Young at the Executive Office Building. The essence of the observations noted above in the 20 August 1971 discussions were orally presented. I was told to prepare the material in writing. On 8 November 1971 Mr. Liddy sent me further information on Ellsberg. On 1 November 1971 Mr. Young at the White House telephoned me requesting the report the following day and he was informed that the requested report was at that time in the hands of my supervisors for their evaluation. On 12 November 1971 the material was delivered by me to the White House and to Mr. Liddy, Mr. Young and Mr. Hunt. These men were interested in obtaining information which could be used to defame or manipulate Ellsberg. While it was never expressed, it was my impression that the material and information provided were not of direct interest or usefulness to Hunt, Liddy or Young.

BERNARD MATHIS MALLOY, M.D.

Subscribed and sworn to before me this 9th day of May, 1973.

VIRGINIA C. LONG,
Notary Public.

My commission expires August 11, 1975.

Mr. NEDZI. At this time—do you have any questions?

Mr. HOGAN. I have a couple of questions if I may, Mr. Chairman. Thank you. Dr. Malloy, it was mentioned you kept a diary. Did you keep all of the features that went on during this time? I think Dr. Tietjen mentioned Dr. Malloy's diary.

Dr. TIETJEN. I corrected myself and said memorandum for the record, but it amounts to the same.

Mr. HOGAN. Did you keep a close record of what was going on at this time?

Dr. MALLOY. Sure tried to.

Mr. HOGAN. Why did you do that?

Dr. MALLOY. Because I was concerned and anxious.

Mr. HOGAN. You had some deep suspicions about the operation, did you?

Dr. MALLOY. I wouldn't say suspicion. It was clear enough they wanted a study. I was uneasy and apprehensive and I think we all were.

Mr. HOGAN. Where is Mr. [deleted] now?

Dr. TIETJEN. He is with the Agency.

Mr. HOGAN. Has Mr. [deleted] offered any testimony on this subject?

Dr. TIETJEN. Not to my knowledge.

Mr. HOGAN. Has he been called to your knowledge?

Dr. TIETJEN. Not to my knowledge.

Mr. HOGAN. I see. Mr. Houston, I would like to address a question to you. Dr. Tietjen expressed concern over the legal implications of this whole operation. Were those legal implications ever conveyed to you?

Mr. HOUSTON. No, sir.

Mr. HOGAN. By nobody?

Mr. HOUSTON. No, sir.

Mr. HOGAN. Were you aware of what was going on, Mr. Houston?

Mr. HOUSTON. The first time I knew of the psychiatric assistance was last Friday morning.

Mr. HOGAN. Really?

Mr. HOUSTON. I heard it for the first time.

Mr. HOGAN. You, the general counsel, didn't know about this until last Friday morning?

Mr. HOUSTON. That is right.

Mr. HOGAN. For the record, Doctor, you mentioned your professional qualifications in sort of a negative sense. You are not a psychiatrist, you are a medical doctor?

Dr. TIETJEN. Yes, I am.

Mr. HOGAN. What is your specialty?

Dr. TIETJEN. General practitioner.

Mr. HOGAN. How long have you been with the Agency?

Dr. TIETJEN. Since 1946.

Mr. HOGAN. Dr. Malloy, for the record could we have your professional qualifications?

Dr. MALLOY. I graduated from medical school at Vanderbilt University in 1954. I interned at Vanderbilt. I did a part of my psychiatry at Vanderbilt. And the next, the last 2 years at New York Hospital, Cornell Medical Center. I did a clinical clerkship at Queens Square in London, the National Hospital for Neurological Diseases.

I am a diplomat of the American Board of Psychiatry and Neurology in psychiatry.

Mr. HOGAN. What about your deputy doctor, you say he is a psychiatrist also?

Dr. TIETJEN. He has had psychiatric training.

Mr. HOGAN. Is he board qualified?

Dr. TIETJEN. No, sir, he is board eligible.

Mr. HOGAN. It was stated the first paper didn't satisfy the White House. Who in the White House didn't it satisfy?

Dr. TIETJEN. By that I mean the individuals with whom we were dealing, Mr. Young, Mr. Hunt—I better change that, though. Because Mr. Hunt only came to our attention after the first paper. So I would have to say Mr. Young's office at that point.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. HÉBERT. Mr. Chairman, may I make a comment as to the questions Mr. Hogan asked, a very important one. We keep referring to the White House. I think for the benefit of the record, who in the White House, because the White House is such a broad thing. When you say the White House, immediately you pinpoint the President. I am not protecting nor condemning him. When you say the White House, who in the White House?

Dr. TIETJEN. That is a very good point.

Mr. NEDZI. Mr. Colby, do you have any statement you would like to make at this time? I assume we are not aware of these operations at the time they were taking place?

TESTIMONY OF WILLIAM E. COLBY, DEPUTY DIRECTOR OF OPERATIONS

Mr. COLBY. No, sir; I wasn't. I came back to the Agency on the 5th of September 1971, and the first time I ever heard of this psychiatric thing was last week. I did do some of the paper staff work in preparing some of the information for the FBI and for the Department of Justice during the past year, working for Mr. Helms. In other words, drawing together what was in the Agency.

Mr. NEDZI. That being the case, let me inquire as to when you were first asked to prepare information for the FBI?

Mr. COLBY. I think probably in about the first of July, 1972, after the *Watergate* case the FBI asked the Agency questions about some of the individuals involved in the *Watergate* case, because they had worked in CIA. We provided a considerable volume of material to the FBI in response to questions that they asked, and then this same material was then provided to the Department of Justice.

Mr. NEDZI. The July contact was initiated by the FBI?

Mr. COLBY. Yes, these were sort of the normal investigations being taken by the Alexandria field office. When the questions would come in, the answers would be checked with me. What I better say is right after the *Watergate*, which as I remember was late June of 1972, right after that, obviously these individuals had worked for CIA in the past, and we began to accumulate information about them.

Mr. NEDZI. The Agency on its own initiative?

Mr. COLBY. We began to accumulate the information about the individuals, yes. You know, the various people who were arrested, McCord, and people like that who were revealed as ex-Agency employees, we assembled their records so we would know what was going on.

Mr. NEDZI. Was any effort made to contact the FBI at that time?

Mr. COLBY. I didn't make any. Whether our security office did or not I am not sure. There was a lot of sort of normal liaison with the FBI.

Mr. NEDZI. Mr. Houston, do you know whether the FBI was voluntarily contacted on behalf of the Agency?

Mr. HOUSTON. I can't answer the question specifically. I know our security office was looking to make sure whether there were any continuing contacts with any of the people named that had previously been associated with us.

I can only assume as Mr. Colby said the normal daily liaison back and forth and discussion with them.

Mr. NEDZI. At the time——

Mr. COLBY. This is the package of material that you asked for, for the record, Mr. Chairman. These various letters.

Mr. NEDZI. At the time you were tasked with this responsibility, Mr. Colby, were you aware of the relationship or the circumstances, the incidents which occurred between Hunt and General Cushman and/or the Ellsberg profile?

Mr. COLBY. I was not aware of the Ellsberg profile at all. The first I heard of that was last week. But the other material gradually came out of the files in various places, and I can't tell you exactly when it first came to my mind. I might be able to reconstruct that but it was in late June or early July that I first got the information about it.

Mr. NEDZI. Was that material furnished to the FBI?

Mr. COLBY. The material—various reports were prepared, reporting this material, as you will see in the documents the material was passed over, and then additional questions would be asked.

Mr. NEDZI. Mr. Colby or Mr. Houston, if we could get for the record any categorical statement as to when the first contact on this matter took place between the Agency and the FBI, and whether the FBI or the Agency initiated it.

Mr. HOUSTON. Yes, we will try to do that, Mr. Chairman. But I should also point out as you will see in these records, some of the requests came in through the Department of Justice channels as a result of information Mr. Silbert, the prosecuting attorney, used for the grand jury.

We proceeded to answer these questions.

Mr. NEDZI. What I would like to see the record disclose is a concern by somebody in the Agency about the whole Cushman incident, and that the Agency voluntarily turned this over to the FBI on their own initiative. I am not certain that the record is going to disclose that.

Mr. COLBY. I would not want to give you that categorical statement right now.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman.

Just one quick question. Mr. Houston, when were you first aware of the Hunt-Cushman situation?

Mr. HOUSTON. I was working with Mr. Colby starting as he said probably in early July on helping pull together the information. We wanted to find out if there was any continuing relationship with any of these people.

Mr. HOGAN. But back at the time you weren't aware of it?

Mr. HOUSTON. No, sir.

Mr. HOGAN. Did you attend these staff meetings, the staff meeting the General talked about?

Mr. HOUSTON. Yes, sir; I did.

Mr. HOGAN. Didn't he mention it was mentioned at that staff meeting?

Mr. HOUSTON. I have no personal recollection of it. I knew at the time Mr. Hunt was working for the White House. It wouldn't surprise me he mentioned Ehrlichman called him.

Mr. HOGAN. Did the occasion arise later on, after you found out about it, to pass any legal judgment on the propriety of that affair?

Mr. HOUSTON. No, sir; I was not consulted.

Mr. HOGAN. Mr. Arends expressed a concern about the charter of the CIA, as far as this Hunt-General Cushman situation is concerned. If you would, for the record, give us your impression, Mr. Houston, of just where the CIA stands in relation to such domestic activity. You don't have to do it now, if you would do it for the record so we would have it in the record.

Mr. HOUSTON. I will be glad to supply my views on the legal situation.

9 May 1973

MEMORANDUM FOR: Director of Central Intelligence

SUBJECT: Prohibition of Police Powers and Internal-Security Functions

1. This memorandum provides for your information a legal opinion pertaining to the Agency's relationship with Howard Hunt in 1971.

2. In 1944 General Donovan presented the President with a plan for a permanent peacetime foreign intelligence organization. This proposal was leaked to the Chicago Tribune, which promptly raised the cry "Gestapo." This thought then was large in the minds of the members of Congress when considering the provisions of the National Security Act of 1947, which pertained to the establishment of the Central Intelligence Agency.

3. While emphasizing the foreign intelligence function, the congressional hearings and debate recognized that the Agency could not operate in a vacuum, that it would have to be domestically based, that it would acquire foreign intelligence from domestic sources, that it would have a foreign counterintelligence responsibility to protect our national security, and that the Director would be responsible for protection of intelligence sources and methods. Derived from this last responsibility was the recognition that the Agency would also have a responsibility for the physical security of its establishment and the integrity of its personnel, including, by agreement with the FBI, the normal security investigation of our employees and persons who need access to our classified material.

4. After substantial debate of the above concepts, Congress enacted the first proviso of section 102(d)(3) of the National Security Act "That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions:" There have been no court decisions interpreting this proviso. Internally, we have felt that in most cases the prohibited area is clear. Thus, while planning and monitoring the physical security of our installations, if any action is to be taken to protect them, we call on the FBI or the local police. Similarly, in connection with the integrity of our employees, if any information is derived which appears to have a criminal aspect or danger to the national security, we again report to the FBI or the police. Our effort has been to assure that none of the personnel of the Agency engages or participates in any of the prohibited activities. Thus, when we are called on to assist the Secret Service in the protection of the President or visiting dignitaries, our employees selected for this purpose are detailed to the Secret Service and are placed under the direct administration and control of the Secret Service. This is by formal interdepartmental agreement pursuant to statute, and no objection has been raised to such an arrangement. From time to time information acquired by the Agency incident to its foreign intelligence collection has become germane to a domestic criminal prosecution, and this has not been construed as an exercise of the law-enforcement powers or internal-security functions.

5. In connection with Howard Hunt and his activities, there are three areas of concern:

a. The first is the provision of alias identification documentation and disguise materials for the purpose, according to Hunt, of interviewing an unidentified individual in alias. The purpose of the interview was not specified by Hunt. Later, at Hunt's request, similar material was given to a then unidentified associate now known to be Gordon Liddy. In addition, Hunt requested and was given a recorder and a concealed camera with film. Again, the use of these items was not spelled out by Hunt. In and of themselves, these actions by Agency employees certainly are not the exercise of subpoena powers, nor do they appear to be the exercise of police or law-enforcement powers. Also, the provision

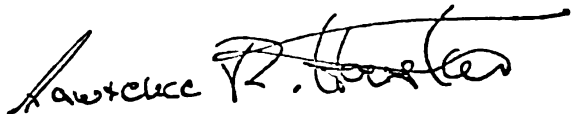
of this equipment does not appear to be a violation of the prohibition on the Agency against internal-security functions. In retrospect, it appears to be assistance to Hunt without knowledge that he was engaging in an activity which appears to have been directed at Ellsberg in connection with release of the Pentagon Papers. The break in of the office of Dr. Fielding by Hunt was clearly an illegal entry, but no Agency officer had any knowledge that such an act was contemplated or reason to believe that the provision of the material would be related in any way to such an act.

b. The second area is the development at Hunt's request of the film from the concealed camera. The Agency employee who developed the film appears to have had no knowledge of the subject matter of the film or why it was taken. Again, at most this appears to be unwitting participation in Hunt's activities, which may have had some relationship to internal security.

c. The third area is the provision to the White House, at the request of NSC officials, of a psychiatric assessment of Ellsberg made from newspaper stories, magazine articles, and Department of State and FBI reports. This again appears to be assistance to an effort to analyze what lay behind the leak of the Pentagon Papers by Ellsberg and others in order to prohibit such leaks in the future. It does not appear to be the exercise of an internal-security function as such.

6. In sum, I am of the opinion that the Agency did not violate the statutory prohibitions in the National Security Act of 1947, as amended, by the provision of the above-mentioned equipment, services, and reports. I can find no law which specifically authorizes their provision, nor can I find a law that specifically forbids it. Certainly I do not think it was a move by the Agency in the direction of becoming a Gestapo, which is what Congress intended to prevent.

7. The question of judgment in approving such actions, and of possible naivete in not ascertaining what was then specifically contemplated, is a matter for evaluation of the relationship between the White House requesters and those Agency officials with a natural desire to cooperate with the White House.



LAWRENCE R. HOUSTON
General Counsel

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. SLATINSHEK. Mr. Chairman.

In addition to that, you do have available and with you, I understand, copies of the regulations which prescribe and outline the parameters of what you can and cannot do in this area?

Mr. HOUSTON. Yes, sir.

Mr. SLATINSHEK. If you can provide them for the record it will be helpful for the committee.

[Note.—Classified material retained in committee files.]

Mr. HOUSTON. Yes, sir; we have here the regulation which existed at the time of the transactions with Mr. Hunt, on U.S. documentation clandestine services operation, and that has been replaced by a new one, which we will also supply.

The general regulation on the Technical Services Division material. The regulation on operational photography. A regulation on domestic safe houses, controlled. And because it is referred to in some of the TSD's, they may incorporate by reference some of our general property controls and accountability, so the regulation on accountability. And in case it is of interest is the clandestine service instruction on the liaison with the Federal Bureau of Investigation.

I think those documents cover the ground.

Mr. NEDZI. Thank you, Mr. Houston.

Is there anybody here who can give us the information on the issue of safe houses? What was the extent of Agency provision or involvement with safe houses?

Mr. COLBY. I think I can answer that, Mr. Chairman. When Mr. Hunt came to see General Cushman first, he said he wanted this assistance and he would like to be met in a safe house.

Mr. NEDZI. Will you define a safe house?

Mr. COLBY. A safe house is merely a place where two people can meet without being observed doing so. It is an attempt to get an office or apartment or a house someplace that apparently is not connected with either of the two, and they can meet there, and go away, and not be observed in the course of their meeting.

Mr. Hunt realized from his services with CIA we have these facilities and have to have them to meet our agents and things like that. He asked that this particular meeting, when he was going to be given this equipment, be held in a safe house.

So that was arranged and that was done. He did not request the independent use of the safe house for himself. We did not make that available to him. So he did not have a safe house provided by us. He was met by us on the occasions he met us in one of our safe houses.

Mr. NEDZI. Mr. Slatinshek just raised a good question. Doesn't this compromise the use of the safe house, if somebody outside the Agency has access to it?

Mr. COLBY. Well, we do keep a fairly close record of just who uses which safe house, so that we don't put the wrong people in the same place. In this case Mr. Hunt was considered an official and a reliable person to serve us.

Mr. NEDZI. You rationalized this kind of requirement on Mr. Hunt's part, in light of the fact that he went in person to the Agency. He met with Dr. Malloy at the Executive Office Building and undoubtedly had all kinds of other contacts.

The equipment he wanted could have been put in a briefcase, I assume. They didn't have to have a moving van to deliver it. What is the rationalization?

Mr. COLBY. He had to be met by the technicians to adjust the disguise, to teach him how to use the tape recorder, to show him how to use the camera. Someone had to meet him.

Mr. NEDZI. He was at the Agency previously before, that certainly is safe, isn't it?

Mr. COLBY. I can't explain why he didn't do that in the Agency.

Mr. HEBERT. It is more dramatic to meet in the safe house.

Mr. COLBY. Possibly.

Mr. NEDZI. Are you prepared to prepare a personality profile on Mr. Hunt?

Mr. TIETJEN. One profile is enough.

Mr. NEDZI. As there are no further questions, I want to thank all of you gentlemen for what I consider to be completely candid testimony and straightforward. Until further call of the Chair, the subcommittee stands adjourned.

[Whereupon, at 12:40 p.m., the subcommittee was adjourned.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Wednesday, May 16, 1973.

The subcommittee met, pursuant to adjournment, at 11:02 a.m. in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order.

This morning we are meeting for the purpose of continuing our inquiry into the CIA involvement in Watergate and related matters.

General Walters, we welcome you back. It might be best to proceed, either with your reading your affidavit or any statement you may wish to make to the committee.

General WALTERS. I think perhaps, Mr. Chairman, if you are agreeable, I would read the affidavit and then be prepared to reply to any questions any of the members might have concerning it. I think it gives it very sequentially. Or I could do it extemporaneously, whichever you prefer.

Mr. NEDZI. Why don't you read the affidavit and then proceed from there?

**STATEMENT OF LT. GEN. VERNON A. WALTERS, DEPUTY DIRECTOR
OF CENTRAL INTELLIGENCE**

General WALTERS. I, Vernon A. Walters, a lieutenant general in the U.S. Army, hereby duly sworn, depose and say as follows:

I have been Deputy Director of CIA since I was sworn into that office on May 2, 1972.

On June 23, 1972, I was ordered by a phone message from my office to be at the White House at about 1300 with Director Helms. I had lunch with Mr. Helms and we went to Mr. Ehrlichman's office at the White House. Present were Mr. Ehrlichman, Mr. Haldeman, Mr. Helms and myself. As I recall it, Mr. Haldeman said that the Watergate incident was causing trouble and was being exploited by the opposition. It had been decided at the White House that I would go to Acting FBI Director Gray and tell him that now that the five suspects were arrested, further inquiries into the Mexican aspects of this matter might jeopardize some of the CIA's covert activities in that area. An appointment was made for me to see Mr. Gray at 1430 that same day. That is almost immediately afterward. I went over and told him, Mr. Gray, that I had been directed by top White House officials to tell him that further investigation into the Mexican aspects of the Watergate episode might jeopardize some of the Agency's covert actions in that area. He said that he understood the agreement between the FBI and the Agency regarding their sources but that this was a complicated case. He would not violate the agreement with CIA regarding sources. On my return to the Agency I checked to see whether there was any

danger in the Agency's covert sources if the Mexican part of the investigation continued and ascertained that no one believed that this was the case. No one had any knowledge of the plan to bug the Democratic National Committee.

That was on a Friday. On Monday, June 26, the counsel to the President, John Dean, called me and asked me to come and see him about the matter I had discussed with Haldeman and Ehrlichman. He said I could check with Ehrlichman and I did. He said I could talk to Dean so I went to Dean's office at 1145 on June 26.

I informed Dean that I had checked carefully to see whether there was any jeopardy to the Agency's sources by a further investigation of the Mexican sources of this matter and had found there was none. Dean then asked whether the CIA might have taken part in the Watergate episode without my knowing it. I said that this was not possible. I knew that the Agency had had no part in the operation against the Democratic National Committee. I therefore could not say that further investigation would jeopardize Agency sources. I felt that someone had bungled badly and the responsible parties should be fired. He asked whether there was not some way in which the Agency might have been involved. I said that I had checked with Director Helms and was convinced it was not. Any attempt to stifle this investigation would destroy the effectiveness of the Agency and the FBI and would be a grave disservice to the President. I would have no part in it and was quite prepared to resign on the issue. He asked whether I had any ideas on what might be done and I replied that those responsible should be fired. He seemed disappointed and I left.

The following day I saw Dean again in his office at his request. He again reviewed the *Watergate* case saying that some witnesses were getting scared and were "wobbling." I said that no matter how scared they got, they could not involve CIA because it was not involved in the bugging of the Watergate. He then asked if the CIA could not furnish bail and pay the suspects' salaries while they were in jail, using covert action funds for this purpose.

I replied that this was out of the question. It would implicate the Agency in something in which it was not implicated. Any such action by the Agency would imply an order from the highest level and I would not be a party to any such action. It would be a grave disservice to the President and the country and would destroy the CIA's credibility with the Congress and the people. I would resign rather than do this and, if ordered to do it, I would ask to see the President to explain the reasons for my refusal. Furthermore, when the Agency expended funds in the United States, we had to report this to the Oversight Committee of the Agency in Congress. He was much taken aback by this and agreed that risks of implicating the CIA and FBI in this matter would be enormous. I said that what was now a painful wound could become a mortal one. What was now a "conventional explosion could be turned into a multimegaton explosion." I again advised him to fire the responsible parties.

Again Dean sent for me on the 28th of June and I saw him at his office at 11:30 that day. He inquired whether I had learned anything more about CIA involvement. I replied that there was no involvement of the Agency in the bugging of the Watergate. He then asked whether I had any ideas and I said that I had none which could be

helpful. Perhaps the Cubans who were anti-Castro might have had a hand in it but the CIA did not.

On July 5, I received a call from Acting Director of the FBI Gray, saying that he could not stop further investigation of the Mexican aspects of this matter unless he had a formal letter from the Director of CIA or me asking him to do this. I said that I would come to his office and I saw him at 1000 the following morning.

I told him that I could not tell him that further investigation would jeopardize the Agency's covert sources. I had checked on this and it was not so. I had ascertained that General Cushman had initially authorized the issuance of some equipment to Howard Hunt without knowing its purpose other than it was, as I understood it, to shut off "leaks." This was long before the Watergate bugging. Since then I had carefully checked and there was no other involvement of any sort by the CIA in the operation against the Watergate. I said that I felt that attempts to cover this up or to implicate the CIA or FBI would be detrimental to their integrity and a disservice to the President and the country. I would have no part in this and was quite prepared to resign on this issue. He said that he shared my views regarding the importance of the integrity of our Agencies and he too was prepared to resign on this issue. I then gave Gray a list of the equipment the Agency had given Hunt and the account of our dealings with the former CIA employees up to the termination of their employment with the Agency long before the Watergate episode.

I saw Gray again on the 12th of July and gave him one additional memorandum regarding the contact furnished Hunt. We reviewed the matter reiterating the position we had taken previously. I said that I had told Dean that the best solution would be to fire those responsible. Gray said he had made the same recommendation. Once again we agreed that anything that might damage the integrity of the FBI and CIA would be a grave disservice to the President and the Government.

In February 1973, shortly after Mr. Schlesinger became Director, I told him of my conversations with Haldeman, Ehrlichman, and Dean. In February Dean called Dr. Schlesinger to see if the Agency could get back from the FBI the material it had sent to the Justice Department concerning our contact with Hunt. I attempted to contact Dean but he was in Florida. On his return I saw Dean at his office on February 21 and told him that we could not ask the FBI for the material back. That would only serve to implicate the CIA and I could not and would not do it. I had seen Acting FBI Director Gray that morning and told him of Dean's request and our refusal. He agreed saying that he could not do such a thing.

Since that date I have had no further contact with Dean. The above represents my recollection of what occurred and the dates are checked in my appointment book.

Mr. NEDZI. Is there anything you wish to add to your statement, General Walters?

General WALTERS. I cannot think of anything, Mr. Chairman, right now, but I would be happy to try and answer any questions anyone might have on this.

When I wrote the affidavit, I wrote as full an account as I could of the events and sequence in which I remembered them.

Mr. NEDZI. On the first page of the affidavit, you say you recall that Mr. Haldeman said the Watergate incident was causing trouble and was being exploited by the opposition. "It had been decided at the White House that I would go to Acting FBI Director Gray."

Who was referred to as "the White House"?

General WALTERS. He didn't say "the White House," he said "It has been decided here." He did not refer to anyone by name.

Mr. NEDZI. What impression do you have?

General WALTERS. My impression was the CIA reported directly to the President. This man was the President's chief of staff.

Mr. NEDZI. Why were you chosen to go to Gray and not Mr. Helms? Mr. Helms was present at this meeting, was he not?

General WALTERS. Yes, sir, he was. I do not know why I was chosen. I surmised when I spoke to the Senate committee that perhaps they thought military people were more inclined to obey orders without challenging them. That is only a surmise. I have nothing to back it up with.

Mr. NEDZI. What was said by Mr. Helms in the course of this meeting referred to between Haldeman and Dean?

General WALTERS. Mr. Helms, in the course of the meeting, said he already told Gray there was no involvement by the CIA. Haldeman repeated that it had been decided you will tell him that this will compromise or endanger assets of the CIA in Mexico.

Mr. NEDZI. What was the reaction to that?

General WALTERS. I don't recall any particular reaction at that time. I believe in fairness to Mr. Helms, neither Mr. Helms nor I know who all the Agency's assets and sources are. The White House might well presumably have knowledge of these, but it is not immediately available to us. They might have had some information on this that had not come to us at the time we went to this meeting.

Mr. NEDZI. Are you saying they might have had some information about something within the Agency about which you had no knowledge, or Mr. Helms had no knowledge?

General WALTERS. I conceive that as a possibility, yes. Something might have been reported to them that had not reached my desk yet.

However, when I returned to the Agency, I proceeded to check immediately to see whether this was true, and I discovered it was not, and on the following Monday—this was a Friday—I told Dean that I had checked and that there was no jeopardy of the Agency's assets by continuing investigation on this.

Mr. NEDZI. Had there been any incidents when there were things going on within the Agency that the White House was aware of that you or Mr. Helms were not aware of to your knowledge?

General WALTERS. I have no knowledge of such. I had been with the Agency 6 weeks at that time.

Mr. NEDZI. Did Mr. Helms acquiesce in this arrangement at that time without any kind of reaction?

General WALTERS. Well, he did say, as I said, he had told Mr. Gray that there was no Agency involvement.

Mr. NEDZI. This was carrying the matter a step further, however, in a very dangerous direction. There was no protestation?

General WALTERS. I do not recall his telling me not to go, sir, no.

Mr. NEDZI. Did he say anything to any of the other gentlemen at the time?

General WALTERS. I think, as I said, he told them that he had already checked and told Gray that there was no CIA involvement.

Mr. NEDZI. Beyond that, there was no indication that he regarded this as something disturbing?

General WALTERS. Not that I recall, sir. He may be able to recall something, but I do not.

Mr. NEDZI. Did you consider it unusual?

General WALTERS. I did, but conceivable.

Mr. MELVIN PRICE. Did you or Mr. Helms at any time discuss the fact about the unusual situation?

General WALTERS. Yes. Mr. Helms did ask me to be very careful in talking to Gray to make sure that we were talking only about the possibility of uncovering CIA assets within the framework of the agreement between the FBI and the CIA not to uncover one another's assets.

Mr. NEDZI. Did you discuss the possibility that there was some factual basis for this kind of concern with Mr. Helms?

General WALTERS. In a general way. I don't believe we had much time for discussion, because I went to Mr. Gray almost immediately, but there are some cases where Agency elements have been used to support things for the White House.

For instance, very sensitive visits by Dr. Kissinger, and so forth. So it is conceivable that some of these resources could have been used.

Mr. MELVIN PRICE. Domestic?

General WALTERS. No, foreign.

Mr. NEDZI. You say on your return to the Agency you checked this problem out and no one believed the case was as represented. When was this?

General WALTERS. I guess it was Friday afternoon, after I saw Mr. Gray.

Mr. NEDZI. The same day?

General WALTERS. Yes, sir. I don't recall whether I got the fullness of it then, but between Friday afternoon and Monday morning I had checked with the regional people responsible and they, as I recall it, told me there was no jeopardy to any of the Agency assets involved in this.

Mr. NEDZI. On Monday you got a call again—

General WALTERS. I got my first call from Dean on Monday.

Mr. NEDZI. Yes.

General WALTERS. He called me, and he said, I have been charged—"I want to talk to you about this matter you discussed with Haldeman and Ehrlichman, and he said I have been charged with handling this matter, and you can check with Ehrlichman to make sure this is true."

I said "I don't know who you are." So I called Mr. Ehrlichman, and after some difficulty I finally reached him and said I received a call from Mr. Dean who tells me he is in charge of this in the White House and he wants to see me at 11:30, should I go, and can I talk to him?

He said yes to both questions.

Mr. NEDZI. Was anything else said by Mr. Ehrlichman at that time?

General WALTERS. No.

Mr. NEDZI. When did you first become aware of the Hunt problem and the Ellsberg profile business?

General WALTERS. The Ellsberg profile I found out when I came back from the Far East 4 days ago. I had never heard about the pro-

file until 4 days ago. The Hunt problem, I guess, I became aware of either this first Monday or the Tuesday, as it occurred before I came to the Agency and I did not know about it. Someone said you should know that, and related the circumstances.

I would say it was approximately the 27th of June.

Dr. SCHLESINGER. 1971?

General WALTERS. 1972. To the best of my recollection it was around the 27th of June, 1972.

The Ellsberg profile I became aware of when I returned from the Far East last week.

Mr. NEDZI. Did that shake your confidence that you were aware of everything that goes on in the Agency?

General WALTERS. I think that if I said I was aware of everything that goes on in the Agency I would probably not be telling the truth, Mr. Chairman. The Agency is just too big for me to be aware of every detail that is going on.

Mr. NEDZI. What about the details of the significance of something like preparation of a profile for the White House?

General WALTERS. As I understand this, this was very closely held within the Agency, sir. I was not at any time consulted or made aware that this was contemplated or being done. By the nature of the Agency, there is a certain amount of compartmentation, and needs to basis on these things.

Mr. NEDZI. In your affidavit you stated that when the Agency expended funds in the United States, we had to report this to the Oversight Committees of the Agency in Congress.

Was any inquiry ever made whether there was any expenditure of funds in connection with furnishing Hunt equipment? Or would that not fall under this definition, in your judgment?

General WALTERS. I don't think actually funds were expended for that. I think he was given equipment that was already within the Agency.

Mr. Colby points out, I think, what we are referring to is the reserve. I believe this extended to this type of expenditure if we have to get these funds we would have to get them out of the reserve and in that case they would have to be reported to the Oversight Committees. However, I would like to emphasize I never contemplated doing this, and I rejected it out of hand as being absolutely impossible.

But I felt if I added this, it would diminish his enthusiasm for this solution.

It did, I might add.

Mr. NEDZI. What is your impression of furnishing of the equipment to someone like Hunt under the circumstances as you understand them?

General WALTERS. Sir, in hindsight I would say it was a mistake. At the time and in the atmosphere that was going on, of the concern in the executive department about leaks, and I believe that General Cushman was not told what the specific purpose of this was; I think, he was told this man had been hired as a White House consultant and was working on the problem of stopping the leaks.

Mr. NEDZI. That is my understanding. Should he have known? Or should he have inquired?

General WALTERS. In hindsight, I would say yes. In all honesty, in foresight, I am not sure I would have given you the same answer, Mr. Chairman.

Mr. NEDZI. That is the answer I would have given.

At page 4 of your affidavit you state, "Perhaps the Cubans who are anti-Castro might have had a hand in it, but the CIA did not."

Why did you make that statement?

General WALTERS. He said to me, "Who could have done this? How could this have been done? Who would have had an interest in this?" I noticed there was a large number of Cubans involved in this situation. I presume the Cubans wanted to know what the policy of both parties would be, this is why I made it. I don't think there is any deep significance. He was almost pleadingly asking me for some theory, for something that would help him out in this.

Mr. BRAY. Dean?

General WALTERS. Dean, I mean. This was Dean.

Mr. NEDZI. You learned on June 23, as I reconstruct the chronology, that the Agency had no deep interest in preserving sources or anything else in connection with an FBI investigation, yet the information about this was not relayed to Gray until some time later. According to your statement, Gray was the one who called you. How do you account for that?

General WALTERS. I was told Mr. Dean was in charge of the investigation. It did not occur to me—perhaps wrongly—he would not have told Gray when I went down and told him there was no Agency involved. To be perfectly honest, when Mr. Gray called me I was somewhat surprised that he was still unaware of the fact that I had told Gray that there was no further Agency interest.

Dr. SCHLESINGER. Told Dean?

General WALTERS. That I had told Dean there was no Agency involvement in this.

Mr. NEDZI. When did you tell Dean this?

General WALTERS. On the Monday.

Mr. NEDZI. On the 26th?

General WALTERS. Yes, sir.

Mr. NEDZI. Then he sent for you again on the 28th?

General WALTERS. 27th and 28th.

Mr. NEDZI. 27th and 28th.

In these meetings there was no reference to the FBI at this point?

General WALTERS. Well, he said the FBI was exploring this on three assumptions, that it was done by the Committee to Re-Elect the President, that it was done by the CIA, and that it was done by somebody else. And I said to him, "I don't know who else did it, but I can tell you the CIA did not do it."

Mr. NEDZI. At the July 5 meeting, following Gray's call to you, you gave Gray a list of the equipment?

General WALTERS. Yes, sir.

Mr. NEDZI. Presumably relating to him the whole Hunt incident?

General WALTERS. I didn't go into the detail of the Hunt incident with him. I believe that was all included in the memorandum. I am not sure, but I think someone else had talked to him about the Hunt episode.

Mr. NEDZI. Prior to your meeting with him?

General WALTERS. I have a feeling somebody had talked to him.

Dr. SCHLESINGER. Are you talking about Gray?

General WALTERS. About Gray being informed about the Hunt business.

Mr. COLBY. Well, as the Director of the FBI, Mr. Gray had probably been informed of the reports received from his field investigators, and a certain amount of information about Hunt had been supplied to the field investigators.

Mr. NEDZI. By whom?

Mr. COLBY. By our Office of Security.

The background, the employment record, and things like this. I think that the information about the provisioning of Mr. Hunt with equipment probably was first brought to Mr. Gray's attention on General Walters' first visit.

General WALTERS. With the memorandum which I took down, which we have here.

Mr. COLBY. Which we have. But Mr. Gray already had a certain amount of information about the topic. He knew Hunt had some equipment, in alias, and things like that.

Mr. NEDZI. The memorandum was dated July 5?

Mr. COLBY. Seven, I believe, that one.

Dr. SCHLESINGER. There were two memoranda.

Mr. COLBY. Two memoranda, one on the 5th and one on the 7th.

Mr. NEDZI. Are they long memoranda?

Mr. COLBY. Very short.

Mr. NEDZI. Would you read them into the record at this point?

Mr. COLBY [reading].

The 5th of July, to the Acting Director about Mr. Hunt.

Reference is made to our memorandum dated 27 June concerning subject of use of the aliases Edward V. and Edward J. Hamilton and your request of 30 June for an exemplar of Subject's alias signature(s) and information as to other aliases or documentation issued him by this Agency.

Review of Central Intelligence Agency files has failed to disclose any exemplars of Subject's alias signatures. The name Edward J. Hamilton was erroneously recorded at one point as Edward V. Hamilton; Agency records reflects that it was entered in that fashion on Subject's District of Columbia Driver's Permit.

Additional checks have disclosed that Subject was to use the District of Columbia Driver's Permit for only one week and was to exchange it in Florida for a Florida Driver's license in the same alias.

The records of this Agency further show that on or about 26 September 1960, Subject was also to be issued a State of Massachusetts Driver's License and various unspecified club and organization cards in the name of Edward J. Hamilton. Where necessary, they were to indicate that Subject was a resident of Providence, Rhode Island.

Detailed Agency records covering the period in question have been destroyed, and there is no specific information in the files of this Agency to the effect that Subject was issued a Social Security Card or Insurance Policy bearing the name Edward J. (or Edward Joseph) Hamilton.

With respect to other alias or documentation issued to Subject, we are searching our records and will advise as soon as possible.

General WALTERS. I cannot remember whether we sent that to him or whether I handed it to him. My recollection is I handed it to him, that I took that down when I went to see him.

Mr. COLBY. I believe you did.

On the 7th of July a similar memorandum to the Acting Director of the FBI, subject, Mr. Hunt. [Reading:]

This memorandum is forwarded in connection with our memorandum of 5 July on Subject in response to your request of 30 June 1972 for information as to any other aliases or documentation issued Subject by this Agency.

During July and August 1971, Subject was issued two sets of alias documentation in the names of George F. Leonard and Edward Joseph Warren. Details of these documents are available if desired, but no signature exemplars are available. He was also provided certain other operational support items. We understood that these were to be used in connection with attempts to ascertain the facts of cases of document leaks. These matters were not in any way connected to Agency operations but were supplied in response to a duly authorized extra-Agency request. This assistance was terminated when Subject's requests escalated beyond appropriate limits. No further support was extended to Subject after August 1971.

Mr. NEDZI. Can anyone explain why, included in that memorandum, there was no reference to cameras and disguises?

Mr. COLBY. "Certain other operational support items," and that included—I don't know whether General Walters mentioned it orally or not.

General WALTERS. I don't believe so. I wasn't aware of the detail of it at the time.

Mr. NEDZI. It strikes me as rather unusual that a memo wouldn't be more specific than it was. Doesn't it to you?

Mr. COLBY. Well, the memo was essentially responding to the request for other aliases.

Mr. NEDZI. I understand.

Mr. COLBY. So it was about documents and aliases, is what it was in response to.

Mr. NEDZI. This is in regard to the Agency's relationship to Hunt—why would that be? Is there any explanation?

General WALTERS. I don't believe there was any intent, Mr. Chairman, to hide it from them. I believe we thought this probably would lead to further discussions in which all of this would be enumerated in detail. I don't believe we, at the time, believed this memorandum would completely satisfy his requirements. I think there were ongoing discussions with his field agent in which the camera subject was brought out.

Mr. COLBY. In later conversations, there were additional questions asked and additional information provided. The entire story was given to Mr. Gray, and also to the Assistant Attorney General, and the principal assistant U.S. attorney.

Mr. NEDZI. Well I, as an observer of all of this, find difficulty understanding why the Agency was not more forthcoming at an earlier time. This, incidentally, was provided pursuant to a call by Gray, not vice versa.

General WALTERS. Yes.

Mr. NEDZI. No one can shed any light on why?

Mr. COLBY. Yes, Mr. Chairman, I can shed light on it. This was about a month after the leak of the Pentagon Papers, and great concern about leaks of Government documents.

Mr. NEDZI. This wasn't—

Mr. COLBY. Consequently, the chance of the Agency being involved and misunderstood to be a part—excuse me, I am sorry. I've got my dates wrong.

This exchange occurred within a month after the *Watergate* case, and the Agency's concern was that it would somehow be involved in the *Watergate* case, and there was quite a lot of publicity and public information in the press, talking about the *Watergate* case.

I think the concern about the leak of material to the press which would somehow involve the Agency wrongly, and make a misunderstanding that the Agency somehow had an active participation in the *Watergate* case.

Mr. NEDZI. Who made that determination?

Mr. COLBY. Well, I think all of us did.

General WALTERS. All of us did. I do not think there was any intent to hide this. I think it was perfectly obvious it would come out, Mr. Chairman. I think this is a case like the other one I told you, in hindsight we should have given a complete inventory in this letter. At the time it seemed to us this would come out naturally in contacts with the FBI.

Mr. NEDZI. There is a thread of inconsistency in what you are saying, General, and what Mr. Colby has just said.

Mr. COLBY. No, I think the idea—

Mr. NEDZI. I get the impression this was a conscious decision to avoid getting the Agency erroneously labeled as being involved in this incident.

Mr. COLBY. To be fully responsive to requests for information about the Agency and any of its connections, to handle as much of the material that was subject to misunderstanding in an oral fashion, rather than in a written fashion, because of the dangers of the leaks and the consequent considerable public misunderstanding as to the actual noninvolvement of the Agency in the *Watergate* case.

General WALTERS. But I am sure the FBI field agents were made aware of the full material—orally were made aware of the full material that was supplied to Hunt, and there was, as I say, no intent of concealment.

Mr. COLBY. Not the FBI field agents, General, but the FBI and the Assistant Attorney General. The Acting Director and the Assistant Attorney General and the principal assistant U.S. attorney on the case.

Mr. NEDZI. When was the Department of Justice notified about this situation?

Mr. COLBY. I think it is in October that the Department of Justice was first beginning to be involved in the case—maybe a little bit before October. In other words, the reports had been submitted by the FBI to the Department of Justice and the Department of Justice had further questions to ask about the case in the preparation of the trial.

Mr. NEDZI. At that time, were the incidents which had occurred with Dean and Haldeman and Ehrlichman also conveyed to the Department of Justice?

General WALTERS. I don't believe so. Mr. Chairman. They were to Mr. Gray, but I don't believe they were conveyed to the Department of Justice to my knowledge.

Mr. NEDZI. Were they ever conveyed to the Department of Justice?

General WALTERS. Not unless the FBI did.

Dr. SCHLESINGER. They were conveyed, I believe, Mr. Chairman, last week.

General WALTERS. Yes, last week I went down and saw Mr. Petersen when I returned from the Far East, and described to him roughly the events covered in this affidavit.

Mr. NEDZI. Why did you do that?

General WALTERS. I came back and Dr. Schlesinger asked all personnel in the Agency who had any knowledge of this to make an affidavit on it, which I immediately proceeded to do. I then went to Mr. Buzhardt, who is the counsel to the President, and I told him of my knowledge of these matters, and he said "You should go at once and see Mr. Petersen."

Mr. NEDZI. Didn't it occur to you to see Mr. Petersen before that time?

General WALTERS. I am sorry, sir; no, it did not. I had thought this would go forward from the FBI normally to the Department of Justice channels.

Mr. NEDZI. I have to agree that is a reasonable assumption in light of Mr. Gray's resignation. Were there no warning bells in your mind?

General WALTERS. Sir, I thought the facts and files were there, and there wouldn't be any—

Mr. NEDZI. To your knowledge, the Justice Department didn't know anything about this until you saw them a few days ago?

General WALTERS. I do not know, sir, whether Mr. Gray spoke to anybody in the Justice Department or not. I have no way of knowing this.

Mr. NEDZI. I said "to your knowledge."

General WALTERS. To my knowledge; no, sir.

Dr. SCHLESINGER. I believe some of the aspects of the conversations between General Walters and Mr. Gray were discussed before the grand jury, and consequently I assume that those aspects of the things were known to the Department of Justice. Whether more was known, I cannot say. I cannot even hypothesize.

Mr. NEDZI. Were the implications of this whole incident discussed at any staff meeting within the CIA?

General WALTERS. Not at a staff meeting.

Mr. COLBY. Not at a staff meeting. They were discussed by General Walters and me.

General WALTERS. And Mr. Helms.

Mr. COLBY. And Mr. Helms, and a few other officers.

Mr. NEDZI. And at that time was there a course of action determined?

Mr. COLBY. The course of action was to be responsive to the FBI requests for information on any questions involving the Watergate, or the people involved, and to report to them the facts.

Mr. NEDZI. When was this determination made?

Mr. COLBY. Very early on, right after the Watergate occurred, and of course a lot of the individuals there had either served with or for CIA in the past and it was essential to clarify what their relationship with the CIA was. This was the traces and information on these individuals, which was all provided in a series of documents sent up to the FBI.

Mr. NEDZI. Was there any thorough review of the Agency's involvement in this in order to prepare a comprehensive report for the benefit

of the FBI or the Justice Department—and/or the Justice Department.

Mr. COLBY. There was naturally an examination very closely to see whether in any way we could have been involved in the Watergate, and it was determined that the only possible misunderstanding that we have been involved in the Watergate could have come from this provision of this material 10 months before to Mr. Hunt, and that that is the only possible thing that could have been so misunderstood that people would say that CIA somehow participated in the Watergate.

Mr. NEDZI. When did you first learn about the Ellsberg profile?

Mr. COLBY. About a week ago, sir—within the last 10 days, something along that nature. I read it in the paper when I was in Asia, frankly, is where I read it.

General WALTERS. Me, too.

Dr. SCHLESINGER. Mr. Chairman, both Mr. Colby and General Walters were in Asia at the time that this information was developed. Mr. Colby returned earlier. General Walters I sent a telegram to. I believe last Wednesday to return home, as a result of these breath-taking developments.

He returned, I believe, on Thursday evening, and on Friday, as he has indicated, he went downtown to tell Mr. Buzhardt about these matters, and subsequently to brief Mr. Petersen.

General WALTERS. I might add this was at Mr. Buzhardt's suggestion, and he made the appointment with Mr. Petersen while I was in his office.

Mr. NEDZI. Mr. Colby, you referred to a memorandum antedating the July 5th memo. Would you read that one in the record also, please?

Mr. COLBY. I am not absolutely sure I have it here, Mr. Chairman, but it really doesn't say very much that bears on the subject. I can provide it for the record, if I may.

[The following information was received for the record:]

MEMORANDUM FOR: THE ACTING DIRECTOR, FEDERAL BUREAU OF INVESTIGATION

Attention: Mr. Arnold L. Parham

Subject: Everette Howard Hunt, Jr.

1. Reference is made to your discussion with [deleted] of this Office on 26 June 1972, relative to the use of an alias by Subject.

2. Subject was issued the alias Edward V. Hamilton on 30 September 1960, for use on a District of Columbia Drivers Permit. His address was shown as 331 First Street, Northeast, Washington, D.C. Biographic data reflected his birth at Hamburg, New York, on 9 October 1918. He was described as 5'10" tall, weighing 174 pounds, and having brown hair and blue eyes.

3. On 26 June 1963, a Post Office Box was established for Subject in the name of Edward J. Hamilton at P.O. Box 10233, Woodridge Station, Washington, D.C. This facility was cancelled effective 27 July 1965.

4. During the 1968-1970 period, Subject was seriously considering the publication of a book, *Give Us This Day*, under the alias Edward J. Hamilton. The manuscript portrayed the events of the Bay of Pigs in considerable detail. As of this date, the story has not been published.

5. The above information is for your use only and should not be disseminated outside your Bureau. Please transmit any information in this matter to the attention of the Director of Security.

For the Director of Central Intelligence:

HOWARD J. OSBORN,
Director of Security.

Mr. NEDZI. All right. Do you recall the substance of it?

Mr. COLBY. It was about Mr. Hunt, but it is short, as I remember. It is his employment record in the Agency, some things like that.

Mr. NEDZI. This was June 27?

Mr. COLBY. Let me just check that.

Yes, the 27th of June.

Mr. NEDZI. General Walters, you said that you gave Mr. Gray a memorandum regarding that contact furnished Hunt.

Would you explain what you mean by the "contact furnished Hunt"?

General WALTERS. It has just been read into the record, sir. I believe it was a number we gave him to call our technical people, an unlisted number, on which he could get our technical people.

If I may, may I read this, Mr. Chairman?

Mr. NEDZI. Sure.

General WALTERS [reading]:

On Friday, 28 July 1972, at 1100 I called on the Acting Director of the FBI, L. Patrick Gray, in his office. He saw me alone. I said I had come to clarify the last memorandum I had given him in reply to inquiries from Mr. Parham re "Cleo."

I said that "Cleo" was Mr. Cleo [deleted], electronics engineer who was in contact with Mr. Hunt during August of 1971. Mr. [deleted] supplied a Uher recorder pursuant to Mr. Hunt's request and assisted him to get it in shape to use for overt, not clandestine, recordings of meetings with agents. There was no attempt to make the recorder useful for clandestine activities. Mr. [deleted] had two additional meetings, generated by a phone call to the above number (a sterile telephone in one of our offices), to straighten out some difficulty that had arisen with respect to the microphones. We never recovered the recorder.

Aside from the above contact with respect to the recorder, there were contacts with Mr. Hunt with respect to false documents and disguise for himself and an associate. He was also loaned a clandestine camera, which was returned. We developed one roll of film for Mr. Hunt, of which we have copies, showing some unidentifiable place, possibly Rand Corporation. We had had no contact whatsoever with Mr. Hunt subsequent to 31 August 1971.

He thanked me for this information and I added that when Hunt's requests had escalated—

Mr. NEDZI. That, incidentally, is not a factual statement, is it. There were no contacts with Hunt following August 31.

General WALTERS. Apparently it is not. I was misinformed.

Dr. SCHLESINGER. There were additional contacts by Agency personnel with Mr. Hunt after that date, Mr. Chairman. Those contacts were all associated with the preparation of the Ellsberg profile. It was developed in testimony the other day by Dr. Malloy that at that time Mr. Hunt pressed him not to make his involvement in this clear to the Director or to Mr. Osborn, and I believe he may have mentioned the Deputy Director as well, although I am recalling this from memory.

This suggests the possibility that Mr. Hunt was well aware of the fact that he was regarded with some degree of disapproval by the senior personnel of the Agency, and that although he was involved in the Ellsberg profile, he was seeking to avoid his name coming to their attention.

General Walters, Mr. Colby, and all others who were associated with the preparation of the material for the FBI, had no knowledge of this other relationship.

Mr. NEDZI. Thank you. There is one detail. My recollection is Hunt also came to the Agency for some unclassified material following August 31, 1972.

Mr. COLBY. Yes, sir, I believe he was provided information on an unclassified French case.

General WALTERS [reading]. "He thanked me"—Mr. Gray this is—"thanked me for this information and I added that when Hunt's requests had escalated we had terminated our assistance to him and had no further contact with him subsequent to 31 August"—I read that.

Gray asked me if the President had called me on this matter and I replied that he said not. Gray then said that a lot of pressure had been brought on him in this matter but he had not yielded. I replied that to destroy the integrity of our two Agencies would be the worst disservice we could do the President and I would not do it. He said he would not either. Gray then said that this was largely a money matter. Some heavy Texas money had given Barker the checks to convert into cash. Overzealousness as to money and judgment was clearly visible.

I told him that we intended to terminate the 965-9598 number and he nodded. Then he said, "This is a hell of a thing to happen to us at the outset of our tenure with our respective offices." I agreed heartily.

He thanked me for coming to see him and for maintaining such a frank and forthright relationship with him. I left him a short unsigned memo embodying what I had told him.

Mr. NEDZI. Was Mr. Helms aware of all of your contacts with Haldeman, Ehrlichman, Dean, and Gray?

General WALTERS. Yes, sir. I had only one contact with Haldeman and Ehrlichman. The first contact Mr. Helms was present at. The phone call telling me I could talk to Dean, I am not totally sure I told Mr. Helms before the fact, but certainly when I came back from Dean, I told him I had been to see Dean as a result of an OK from Mr. Ehrlichman. He was aware of all my other subsequent visits; yes, sir.

Mr. NEDZI. Was this handled on a memorandum basis?

General WALTERS. No, sir, on a personal basis.

Mr. NEDZI. All of the things which you did met with his approval?

General WALTERS. Completely, sir.

Mr. NEDZI. Did he suggest any other course of action to you at any time?

General WALTERS. No, sir.

Mr. ARENDS. Could I ask you this question, General? I read the paper this morning. Of course I read your affidavit. We scanned what was said by various Members in attendance yesterday afternoon at the hearing.

I am a little surprised to see so much written in the paper about what was said, as to the statement you had. Did you read this? Did you have an opportunity to read the paper this morning?

General WALTERS. Yes, sir, I did.

Mr. ARENDS. Did you find any discrepancies in any way, any misleading statements or anything of that type?

General WALTERS. I found one small thing that bothered me. I can't remember. I haven't got the paper in front of me—that struck me at the time.

Mr. BOB WILSON. I think Symington's statement—

General WALTERS. Overwhelmingly it was in accord with the facts as I testified, but there was one—

Mr. COLBY. He is looking, Mr. Chairman.

Mr. BOB WILSON. At Symington's statement there is a statement—

General WALTERS. There is either a typographical error in the newspaper, or a change in meaning in something that struck me.

Mr. ARENDS. The point I want to make, Mr. Chairman, as I walk out of here and you fellows walk out of here, the hall is full of people. What do we do? Do we remain quiet or do we do as apparently they set the example over there yesterday, and just tell everything they want to say?

Mr. NEDZI. Well, we will probably just release the affidavit.

Mr. ARENDS. It is already in the paper.

Dr. SCHLESINGER. The affidavit is not in the papers, Mr. Arends. The affidavit has not been released.

Mr. ARENDS. Just his statement?

Dr. SCHLESINGER. No, sir.

Mr. MELVIN PRICE. Did the same statement go to the grand jury?

General WALTERS. Mr. Silbert has asked me not to make public the affidavit since it might jeopardize the case.

Dr. SCHLESINGER. The affidavit has not been made public, Mr. Arends.

Mr. ARENDS. His affidavit?

General WALTERS. That is correct.

Dr. SCHLESINGER. There was a three- or four-page statement made to Senator Symington which has been made public.

Mr. ARENDS. This was made public in the hearing yesterday over there?

Dr. SCHLESINGER. No, sir. The hearing with General Walters was held on Monday. I believe it was Monday evening that we were informed at the Agency Senator Symington intended to hold a press conference at 2:30 on Tuesday, and I was not aware that he had a prepared statement, were you?

Mr. MAURY. I was not aware at that time he had a prepared statement; no, sir.

Mr. NEDZI. It is perfectly obvious to me in reading the account, the statement was based on the affidavit, and this morning in comparing the statement with the affidavit there wasn't a single substantive item in the statement that was not included in the affidavit.

I think as a result, this subcommittee just will release the affidavit and let it go at that.

Mr. Bob WILSON. Mr. Chairman, the one point that I thought was significant in having read the affidavit and then read Symington's account of his discussions, he said, in the affidavit, I went over and told him I had been directed by top White House officials to tell him further investigation—that puts it off. Symington says, "You went over and told him that further investigation might jeopardize?"

General WALTERS. The first time I talked to Gray I did not mention names. The second time I talked to him I told him—

Mr. NEDZI. For that reason, I think because there is nothing material, all the affidavit will do is correct any misimpression in the press at this time and it would be appropriate to release it.

General WALTERS. The only reason I called when I was asked whether it was releasable. I called Mr. Silbert, who was the prosecutor. He told me he could not concur, he obviously could not stop one of the congressional committees, but he could not concur in the Agency releasing, as he feared it might prejudice the case against one of the defendants.

Mr. NEDZI. I can understand that.

Dr. SCHLESINGER. Mr. Chairman, I believe we had some discussion about this matter with the Department of Justice yesterday, because Senator Symington had urged that the Agency release the affidavit. The advice that we received from the Department of Justice was that no agency in the executive branch should release that affidavit.

Mr. SLATINSHEK. What you are saying is not the material in the affidavit that is concerning them, it is the fact that the executive branch would be involved in its release, which would suggest an effort on his part to prejudice the action.

Dr. SCHLESINGER. I believe that is correct, Mr. Slatinshek.

Mr. NEDZI. Do you have any further questions?

Mr. ARENDS. No; I just want to be guided by what you think we ought to do in the subcommittee, how much we ought to say, and to what bounds do we go with respect to these meetings.

I don't believe this is the way to proceed. I don't think I ought to have a press conference.

Mr. NEDZI. We can get to that after the witnesses have concluded their testimony.

General WALTERS. Sir, I don't know if I will have time, I don't want to hold you up. There was a very minor one in the thing. The thrust of it was very minor.

Mr. ARENDS. The press can do that very easily.

General WALTERS. Very easily.

Mr. COLBY. I found that June 27 letter, if you would like me to read a part of it, or read what is relevant here.

"Reference is made to your discussion—" this is to the Acting Director of the FBI, subject, Mr. Hunt.

"Reference is made to your discussion with Mr. Leo J. Dunn of this Office on 26 June 1972, relative to the use of an alias by Subject.

"Subject was issued the alias Edward V. Hamilton on 30 September 1960, for use on a District of Columbia Drivers Permit."

Mr. NEDZI. You read that previously, didn't you?

Mr. COLBY. It repeats some of the information, yes, sir.

His address was shown as 331 First Street, Northeast, Washington, D.C. Biographic data reflected his birth at Hamburg, N.Y., on 9 October 1918. He was described as five feet ten inches tall, weighing 174 pounds, and having brown hair and blue eyes.

On 26 June 1963, a Post Office Box was established for Subject in the name of Edward J. Hamilton at P.O. Box 10233, Woodridge Station, Washington, D.C. This facility was cancelled effective 27 July 1965.

During the 1968-1970 period, Subject was seriously considering the publication of a book, Give Us This Day, under the alias Edward J. Hamilton. The manuscript portrayed the events of the Bay of Pigs in considerable detail. As of this date, the story has not been published.

The above information is for your use only and should not be disseminated outside your Bureau. Please transmit any information in this matter to the attention of the Director of Security.

For the Director of Central Intelligence:
Signed by Osborn, our Director of Security.

Mr. NEDZI. Mr. Price.

Mr. MELVIN PRICE. General Walters, you told Mr. Dean you would rather resign, if the CIA were ordered to furnish bail and pay the suspects' salaries while they were in jail.

You stated that if you did decide to resign under these conditions, you would have to see the President to explain the reason for your refusal. Does this imply during this conversation with Dean, the President's name was mentioned?

General WALTERS. No, sir. Again, as a matter of opinion, my opinion was that there was considerable concern that the President would find out, and when I said if I am ordered to do this I will ask to see the President, he dropped the suggestion.

Mr. MELVIN PRICE. You did feel the President might imply you had refused this suggestion on the part of Dean?

General WALTERS. I did not believe Dean would tell him. I did not believe Dean would tell him he made the suggestion to me. I might add that I repeated—I won't say threat, but my statement that I would resign on all three of the meetings I had with Dean.

Mr. MELVIN PRICE. In any of the conversations with Ehrlichman, Haldeman, and Dean, was the President's name brought up?

General WALTERS. I can't recall it, sir.

Mr. MELVIN PRICE. That is all I have.

Mr. NEDZI. Mr. Wilson.

General WALTERS. My impression throughout was that the President did not know.

Mr. BOB WILSON. Mr. Chairman, I am trying to find the discrepancy and I think I found it here. In the affidavit General Walters said "I went over and told him"—Mr. Gray—"that I had been directed by top White House officials to tell him that further investigation—" In other words, that clears your skirts there. But Senator Symington says, "According to General Walters' testimony he told Mr. Gray that senior people at the White House had told him pursuit of the investigation of the Mexican financing would uncover some of the Agency's—"

General WALTERS. I did not mention names.

Mr. BOB WILSON. The point is in your affidavit you say "I was told by the White House" to tell this.

General WALTERS. That is right.

Mr. BOB WILSON. Here he says the White House told you to say that. I think there is a discrepancy.

General WALTERS. I don't believe there was any doubt in Mr. Gray's mind I was not giving him this information of my own knowledge. I think it was quite clear to him I had been to the White House and had been told there by senior people to tell him this would be the case.

Mr. BOB WILSON. In other words, to tell an untruth—you had been told to tell him whether it was true or not, that was the implication I got from your affidavit.

General WALTERS. That is right, sir. I reported this as something I was told to tell him, not something I was giving him on my own hook.

Dr. SCHLESINGER. Mr. Chairman, may I observe at that point—at that point General Walters was not in a position to know it was not a truthful statement. He then went home, after he went back to the Agency after seeing Mr. Gray, and ascertained that there was no justification for that statement. But he did not say anything that he knew to be wrong at the time that he said it, and he corrected it immediately after finding out that information.

Mr. BOB WILSON. That is all, Mr. Chairman.

Mr. NEDZI. General Walters, did you inform Mr. Gray of the substance of all of your conversations with Haldeman, Ehrlichman, and Dean?

General WALTERS. I had only one conversation with Haldeman and Ehrlichman. I did inform him of the substance of that. Of the conversations with Dean, I told him of the general thrust. So much of it was repetitious—isn't this some agency involved? What have you discovered about the Agency involvement? I didn't go into that in detail. I told him basically that Dean had told me there were three possibilities in this. They were investigating them. I told Dean there was no Agency involvement. I told Dean that I could not in any possible way tell him the Agency was involved. I would resign. I told Mr. Pat Gray each time I saw him, if I were forced to go any further or if I were ordered to do anything further, I would resign, but before I resigned I would ask to see the President to tell him how dangerous I thought this was and why I was doing it.

Mr. NEDZI. From your statement, did Gray fully understand the pressure that was being applied to implicate the Agency?

General WALTERS. I believe so, sir. At least as far as I could tell. There may have been other questions. The only one I could inform him of were the only ones I could have personal knowledge of myself. If I may say so, Mr. Chairman, the pressures on me were considerable.

Mr. NEDZI. I recognize that, General Walters.

Mr. Fisher.

Mr. FISHER. I want to ask one question. The President has stated that Mr. Dean was in charge, or was commanded or directed to investigate certain aspects of the Watergate incident.

Since that time questions have been raised, the issue has been made in the press as to what that involved, or as to whether he was really directed or actually performed in that regard.

After reading your statement and listening to your responses, it would appear to me that Mr. Dean was acting in the capacity of one in charge of an investigation relating to the Watergate incident. Did you get that impression?

General WALTERS. Yes, sir, I did.

Mr. FISHER. He was the one person in the White House who could have been charged with some sort of an investigation, such as it was.

General WALTERS. That was my impression, sir. I cannot recall exactly what Mr. Ehrlichman said, whether "He is in charge of it" or "investigating it," but he made plain to me Mr. Dean was the man who was handling this whole matter.

Mr. FISHER. So on three different occasions Dean telephoned for you to come to the White House?

General WALTERS. Correct.

Mr. FISHER. To discuss these same matters, some of them repetitious, about his suggestions and involvement?

General WALTERS. Very repetitious.

I might add on all three occasions I said to him, when he said, "What shall we do?" I said, "Fire the guilty."

Mr. FISHER. Yes.

General WALTERS. And he said to me "No one is going to be fired."

Mr. FISHER. Oh.

Mr. MELVIN PRICE. Would the gentleman yield?

Mr. FISHER. Yes; I yield.

Mr. MELVIN PRICE. Then the question arising from that, why would Dean have to check with Mr. Ehrlichman to determine whether it was all right for you to talk to Dean?

General WALTERS. He did not, sir. I was the one. When Dean called me, I didn't know him from Adam. I certainly wasn't going to talk to him about this kind of a matter.

Mr. MELVIN PRICE. Because you didn't know Dean and you didn't know what it was about?

General WALTERS. Dean said to me "Call Mr. Ehrlichman to find out if it is all right to talk to me," which is what I did.

Mr. FISHER. I get the impression from reading your statement and listening to your testimony, that there appears to be no question about Mr. Gray working properly with the CIA in connection with these exchanges that took place, and that he shared your views about a full investigation, on top of the table, and he was uncompromising in that attitude; is that correct?

General WALTERS. That is correct, sir, and my attitude was great respect for his integrity.

Mr. FISHER. Very well.

General WALTERS. He and I discussed this and we agreed we could not possibly destroy our agencies, not for personal reasons, but for what this would do to the U.S. Government.

Mr. FISHER. So Dean going far beyond the realm of investigation of the facts relating to this, appears to have made these outlandish suggestions that the CIA and the FBI not pursue an investigation of the Mexican aspects of the case.

General WALTERS. He had not made that suggestion, sir. That was Mr. Ehrlichman that said that to me at the first meeting—halt it, Mr. Haldeman, I am sorry.

Mr. FISHER. He was not present?

General WALTERS. He was not present, sir, at the first meeting.

Present at the first meeting were only Mr. Haldeman, Mr. Ehrlichman. Mr. Helms, and myself.

Mr. FISHER. I understand. But you did have that discussion with him relating to that later?

General WALTERS. I told him I ascertained there was no jeopardy of it.

Mr. FISHER. Yes. Then the other unusual request, most unusual, that he made, was that the CIA place some of these culprits on the payroll, on their payroll. Did he explain why he wanted that done?

General WALTERS. No, sir, but that is what prompted me to say not only would I resign, but I would go to the President if ordered to do this.

Mr. FISHER. You didn't pursue that conversation?

General WALTERS. When I told him I would go to the President, he dropped it. He opened the conversation by saying some of the witnesses were frightened, wobbling, and might talk. I said, "Let them talk. It doesn't affect us."

Mr. FISHER. I think that is all, Mr. Chairman. Thank you.

Mr. NEDZI. To pursue that, a matter of Mr. Dean conducting an investigation, based upon your contact with him, can you fairly describe what was taking place as an investigation?

General WALTERS. I don't believe he mentioned the word "investigation," per se, to me. He seemed to be trying to find out what was going on, and he assumed that this was some kind of an operation directed against the White House. At no time did he indicate to me that anybody in the White House was really guilty, and in fact, when I said to him, "Fire the guilty," he said, "No one is going to be fired."

Mr. NEDZI. Mr. Dean said this?

General WALTERS. Yes, sir.

Mr. NEDZI. Can you elaborate on that point, why he would say something like, "No one is going to be fired"?

General WALTERS. No, sir, except maybe I thought he might have found there was some third group that had been doing it.

Mr. NEDZI. Let me get back to my first question, General Walters, to understand.

Now, Mr. Dean in his contacts with you, did he inquire of what the Agency was doing, or what the Agency had intended to do, or anything else? In other words, my definition of an investigation is somebody would be asking very detailed questions about who was involved, and saving what to whom, and what correspondence there is and this kind of thing.

Was there any such procedure followed on the part of Mr. Dean?

General WALTERS. No, sir. If I may describe my impression of him at that time, it was presumption of guilt on the part of the Agency. You mean you haven't found out yet what the Agency was doing? I believe the last time I saw him on the 14th, I had a very brief meeting with him on the 14th of July, he just said to me "What have you discovered about the Agency's involvement?"

I said "Nothing, the Agency is not involved." That was the last I heard of him until I saw him in February, 6, 7, 8 months later. He seemed determined to pursue—at least I would put it this way—it was obvious that the option of blaming the Agency was being examined.

Mr. NEDZI. Was it your impression he really knew what the facts were?

General WALTERS. I couldn't fairly answer that, Mr. Chairman. Now of course it would seem to me obvious that he did. At the time, frankly I didn't believe anything that stupid could be done.

Mr. NEDZI. There has been some suggestion in the press that the CIA had requested that the FBI not interrogate certain individuals with reference to this matter. Can you clarify that situation for us?

Mr. COLBY. Yes sir. The FBI field office came to us with a series of questions about the people who were arrested during the Watergate, and the names that appeared in their notebooks and things like that, and it became quite obvious that if we provided all of this material at the field level, that the probabilities were that it was going to leak, and we were going to get a great press story about CIA involvement in the Watergate.

Consequently, we went to Mr. Gray and said we will be totally responsive at your level, but we ask you to hold it at a senior level, and not have it spread all over the place, and not have our individual employees interrogated and so forth. We will be totally responsive at the top level, but we would rather not get involved in a wide ranging set of questions around, which would be sure to create the press misunderstanding that the CIA was somehow involved in the Watergate,

since we were convinced we were not involved in Watergate, and we thought this was the most sensible way to handle it in view of the considerable volatility of the mention of CIA in the press.

Mr. NEDZI. Was there any similar problem with the Justice Department?

Mr. COLBY. We went to the Justice Department in sort of the same context when the case was being prepared by the principal U.S. attorney. We went to the Justice Department, provided them all the material that we have previously provided the FBI, and answered a series of additional questions.

Mr. NEDZI. Who was your contact?

Mr. COLBY. We went to Attorney General Kleindienst and Assistant Attorney General Petersen, and Mr. Silbert, who prosecuted the case, was brought into the matter.

Mr. NEDZI. All three gentlemen were completely aware of all the facts that you had, is that right?

Mr. COLBY. Yes, they were totally informed.

Mr. NEDZI. Were there any discussions with Mr. Haldeman, Ehrlichman, Dean, or Gray on matters relating to the Watergate which were not described in your affidavit?

General WALTERS. Not to my knowledge.

Mr. COLBY. Not that I know of, no.

Mr. NEDZI. Had you ever met any of the gentlemen before, General Walters?

General WALTERS. I had met Mr. Haldeman and Mr. Ehrlichman before, sir. As you know, on various trips with the President I served as his interpreter. This was not a fulltime job. At the time I did it, I was Defense Attaché to France. When he would come to Europe, I would join him somewhere and go around to five or six countries. In the course of that I saw or met Mr. Ehrlichman and Mr. Haldeman, both of whom I was on a formal basis with, not a first name basis. I did not know them, they were acquaintances, not friends.

Mr. NEDZI. Did you have any meetings with them prior or subsequently?

General WALTERS. That is correct.

Mr. COLBY. The way you phrased that question, whether there were any other contacts, other than in General Walters' memorandum, there were additional contacts which are covered in the material that we have provided to the committee for the record.

Mr. NEDZI. I was referring to General Walters' contacts, personally.

Mr. COLBY. With Gray. The only one is Gray, and there were certain additional material provided to him, which is in the material given to you. The only one of importance is the facts that we were asked about two individuals, a Mr. Manuel Ogarrio, a Mexican, and a Mr. Kenneth Harry Dahlberg, and we had any continuing relationship with them, and Mr. Helms phoned Mr. Gray to inform him orally of the limited amount of information we had on these gentlemen, but chiefly the fact that we had not had any operational contact with Mr. Ogarrio, and that our last recorded contact with Mr. Dahlberg was in May 1961.

Mr. NEDZI. What was the relationship?

Mr. COLBY. I have forgotten it right now. It was in discussion, as I remember, of some operational collaboration overseas, and it was terminated at that point, 10 years before.

Mr. NEDZI. Was Mr. Dahlberg employed by the Agency at any time?

Mr. COLBY. No, he was not employed. He was an American citizen who we agreed to work together and I don't think it worked out, frankly, and the contact was terminated in May 1961.

It really wasn't relevant to the question that was up here.

Mr. NEDZI. On the Mexican attorney, was there any contact with the Justice Department or the FBI beyond this memo?

Mr. COLBY. No. We may have given such little background checks as we had on the man, but it certainly had no connection with us. I mean, you know, what we knew about him from information. There is no operational relationship with us and this individual.

Mr. NEDZI. Was there any other kind of assistance suggested by Dean to the individuals implicated in the burglary?

General WALTERS. I do not recall any, Mr. Chairman.

Mr. NEDZI. Other than the payment of their salaries and cleaning up of the bail?

General WALTERS. I do not recall any, Mr. Chairman.

Mr. NEDZI. Frank, do you have any questions?

Mr. SLATINSHEK. Yes, sir; a couple of quick questions, sir.

General Walters, you indicated in response to one of the questions that Mr. Nedzi had raised that there were tremendous numbers of pressures on you in connection with this—at least this is what I understood you to say.

General WALTERS. No, sir; what I meant is Dean was obviously putting pressure on me to do this, and the only way to turn it off. I felt was to resign. There was no other pressure from any other source.

Mr. SLATINSHEK. Let me go back briefly to your contact with the White House—Ehrlichman, Haldeman, and Helms were present at that time. Mr. Helms indicated there was no CIA involvement. Despite that you were ordered to go to Mr. Pat Gray and tell him—you were ordered or directed, whatever word you choose to use, to tell Mr. Gray there was concern of the Agency that some Mexican sources might be blown, so to speak, if they continued to pursue that course of investigation.

At that time did Mr. Gray mention that Helms had indicated previously to him that there was no CIA involvement?

General WALTERS. Yes, sir; if I may describe the differences between involvement and uncovering assets. Mr. Helms said there was no involvement by the CIA in the Watergate bugging, but an investigation of the financial part of it might uncover some methods or techniques by which the Agency moved money. This is not quite the same thing as the Agency being involved in the bugging.

Mr. SLATINSHEK. I recognize that. In other words, Helms had not referred to that matter to Mr. Gray previously?

General WALTERS. I don't believe so, sir. I think at the time Mr. Helms and I both realized we could not possibly know all of the agents and all of the methods by which the Agency moved money; and it is, I would say, conceivable or plausible someone in the White House might have some knowledge of this, that for some obscure reason might have come to their attention, but it did not come to ours. Nevertheless, I was suspicious, and when I got back I did check.

Mr. BOB WILSON. Will you yield? I wonder if you can determine who specifically at the White House directed you to tell Mr. Gray that the Agency would be compromised?

General WALTERS. Mr. Haldeman.

Mr. BOB WILSON. Haldeman?

General WALTERS. Yes.

Mr. SLATINSHEK. Dean was not present at this particular meeting?

General WALTERS. No, sir.

Mr. SLATINSHEK. You had then gone to Mr. Gray and indicated some concern over this matter, and this concern manifested itself in Mr. Gray apparently holding back some degree of effort in this investigation involving Mexican sources, is that right?

General WALTERS. I don't know whether this occurred.

Mr. SLATINSHEK. I am sorry.

General WALTERS. I don't know whether this actually occurred but it would have been a plausible sequence of my going to him.

Mr. SLATINSHEK. What did he say to you?

General WALTERS. He said to me that he was aware of the agreement between CIA—

Mr. SLATINSHEK. He would honor it?

General WALTERS [continuing]. And the FBI, and he would not do anything that would break it.

Mr. SLATINSHEK. He would honor it?

General WALTERS. That is correct.

Mr. SLATINSHEK. A reasonable man would assume, therefore, he would somewhat limit and curtail his investigation in the Mexican matter.

General WALTERS. I think that is a reasonable assumption.

Mr. SLATINSHEK. Subsequently, the next day, I believe—

General WALTERS. No, sir, this was a Friday.

Mr. SLATINSHEK. At what point in time did you ascertain you had no problem of compromise?

General WALTERS. I would say I left Mr. Gray's office probably around 3 o'clock or maybe a little after; I came back to the Agency and started asking around. I am not sure whether I obtained certainty at that time or whether that certainty was completed on Monday morning, but it was completed before I went to see Mr. Dean at 11 or 11:30.

Mr. SLATINSHEK. Since Mr. Dean was not involved in the transaction between you and Mr. Gray in the first instance, I find it difficult to understand—and I realize this is in retrospect—why once you had ascertained that there would be no compromise of the Mexican effort that you did not communicate this to Mr. Gray.

General WALTERS. In retrospect I should have. But since I had been told Mr. Dean was handling this whole matter and I knew he was in contact with Mr. Gray, I perhaps wrongly presumed that he would automatically tell Mr. Gray what I had told him.

Mr. SLATINSHEK. This is the matter that Mr. Nedzi had raised and the period of approximately 2 weeks that elapsed before apparently the FBI went back to work, so to speak, on this Mexican effort leaves a little problem in our record and I thought I better review that.

Dr. SCHLESINGER. I will speak to General Walters for a moment.

You mentioned earlier compartmentation in the Agency sometimes precludes you from knowing what activities might be going on in the Agency.

In this instance, of course, what we are talking about is something Mr. Helms was aware of and apparently you were not aware of.

Could you tell the subcommittee what circumstances would justify the Director excluding the Deputy Director from some important matter?

General WALTERS. I cannot hazard a guess, sir. There were some on-going operations that he told me about when he left, nothing related to any of this, in various parts of the country, but I don't know what his criteria or judgment could be for that.

Mr. SLATINSHEK. I am raising a hypothetical situation. Is there any circumstance in your mind—and I am going to ask Dr. Schlesinger and Mr. Colby the same question—is there any circumstance at all in which the Deputy Director should be excluded from an awareness of what is going on in the Agency, an awareness that the Director does have?

General WALTERS. I don't personally know of any, but I think this may very well have not been deliberate at all. He may simply with the normal press of business had just forgotten to mention it to me. Once he did that, the rush of events and business was so great he probably didn't recall he had not told me.

Mr. SLATINSHEK. I am speaking of the Ellsberg profile now.

General WALTERS. That is what I am speaking of, too, sir.

Mr. SLATINSHEK. Dr. Schlesinger, can you give us your view as to any circumstance that might justify some compartmentation between the Deputy Director and the Director of CIA, and an awareness of what is going on in the Agency?

Dr. SCHLESINGER. I can't think of anything in the abstract, Mr. Slatinshek.

I have attempted, I think General Walters will bear this out, to keep him fully informed on all Agency business.

General WALTERS. That is correct.

Mr. SLATINSHEK. I should think so. It would be absolutely essential to the well-being of the community, the Agency.

Mr. Colby, I presume your response would be the same?

Mr. COLBY. I think the same. Although, like Mr. Schlesinger I don't think I would absolutely exclude the possibility. I think it would be extremely rare, but I would not think it absolutely impossible.

Mr. SLATINSHEK. Yes. What you are saying is there might be an omission due to inadvertence?

Mr. COLBY. No; I mean a conscious effort. I would not exclude a situation in which the President gave the Director a direct order that something was to be held to himself alone on some critical national security problem.

Mr. SLATINSHEK. This is the only circumstance that occurred to me.

Mr. COLBY. As I say, I would not want to exclude the possibility.

Mr. SLATINSHEK. Of the President directing the Director. Other than I find it difficult from an organizational standpoint—

Mr. COLBY. In the normal workings of the business I would say absolutely not.

Mr. NEDZI. What about a representative of the President?

Mr. COLBY. I think it is a little different. If you have something as sharp as that, you ought to check that.

Dr. SCHLESINGER. I think in recent months it has led to a far greater awareness on that point in my division.

Mr. NEDZI. I am really inclined to agree. I think that may be some real benefit that finally emerges out of this whole tragedy. I think people are much more aware.

Mr. MELVIN PRICE. Dr. Schlesinger, being an old Atomic Energy man, knew Dr. Agnew real well, in regard to Los Alamos, he told the story one time he read in the paper the White House said this and the White House did this. He said he went down and stood in front of the White House 3 hours, and didn't hear it say a thing.

General WALTERS. This is peripheral, but it is just an incidental story I told Mr. Dean. Napoleon, who did not habitually shoot people individually, had the Duke of Enghien kidnaped in Germany and brought to Paris, where he had him shot. Napoleon's Foreign Minister, Talleyrand, who was a great cynic, was sitting there brooding, and Napoleon said to him, "You are sulking because you think it was a crime." Talleyrand replied, "No, sire, it was worse, it was a mistake."

I told him that story in one of the conversations. I can't remember which one, but I did tell him the story.

Mr. NEDZI. General Walters, in any of your conversations did Dean indicate any of the Watergate suspects were prepared to implicate the Agency in this matter?

General WALTERS. I got a distinct impression in that direction, yes. I kept repeating, no, sir.

Mr. BOB WILSON. That is when he said they were wobbling?

General WALTERS. Yes, and they might implicate the Agency. I said, "Let them talk. They can't implicate us."

Mr. NEDZI. Can you speculate for our benefit on why Dr. Schlesinger was called in February of 1973 with respect to those files, rather than you?

General WALTERS. I think he thought another call to me would produce another threat of resignation.

But Dr. Schlesinger was the titular head of the organization. I can't speculate on that.

Mr. NEDZI. I guess this should be addressed to all of you gentlemen, whether you made any attempt to report these contacts which you had had to any of the congressional oversight committees?

General WALTERS. I did not, sir. I reported it to my superior and the Director of the FBI, since the CIA is not supposed to have any internal police power.

Mr. NEDZI. Would you comment on the desirability of making such reports?

Dr. SCHLESINGER. That is an intriguing question. It certainly bears examination, Mr. Chairman.

I wouldn't care at this point to commit myself as to its being desirable, but it is an intriguing suggestion.

Mr. BOB WILSON. You are like a child to whom they say "Don't speak unless you are spoken to," is that right?

General WALTERS. To give you my feeling on it, I have been made three propositions that were improper. I had rejected all of them, and I was pushed no further.

Mr. NEDZI. Do you have a question, Frank?

Mr. SLATINSHEK. Yes, sir.

This is a matter that I think we ought to clear up for the record.

On your appearance before the committee on Friday, Dr. Schlesinger, you stated as follows:

I am here to discuss the questions which have arisen over CIA's real and alleged role in events that occurred in 1971 and 1972. I have opened a detailed investigation into the precise nature of that role. I can report to you on what Agency records now being intensively reviewed reveal at this juncture. However, I do not yet know that I have all the facts in the matter. Nonetheless, I am pleased to present to you such facts as are now available, and I will certainly provide you with any further details as they come to my attention.

Now, General Walters has indicated that he had discussed with you his meeting and problems with Mr. Haldeman and Mr. Ehrlichman. But you made no reference to that in your appearance on Friday. This relates to the very question that Mr. Nedzi has raised as to whether or not you should volunteer information of this kind.

On the basis of the opening statement that you made, we at least got the impression, perhaps incorrectly, that you were telling us at that point in time everything you knew about this circumstance, but General Walter's involvement was not mentioned. Could you speak to that?

Dr. SCHLESINGER. Yes, sir. I believe in my statement, which I don't have at the moment, I went on to say that this related to the Ellsberg matter, our associations with Mr. Hunt, the question of participation in the Watergate affair, and so on.

Now, it did not seem to me to be appropriate at that point in time to provide additional material on the questions that were discussed that day, later on, as a matter of fact, with the Senate Armed Services Committee. I believe it was that afternoon that I mentioned some of these matters in response to a question of whether there had been contacts associated with the statement by Mr. McCord—a followup to the statement by Mr. McCord. But that seemed to me to be different from the set of issues this committee was at that moment pursuing.

Mr. SLATINSHEK. It might be a different reading or interpretation of these matters. I won't pursue that any further.

One other question, Mr. McCord had issued a memorandum and was printed in the New York Times?

Dr. SCHLESINGER. Yes, sir.

Mr. SLATINSHEK. Among other things there were some serious allegations, one which is personal to you. And I read the allegation for the record. We would like to have your comment. He is speaking of the attorney's suggestion, and I am quoting Mr. McCord:

He said that if some of my personal records at CIA could be doctored to reflect such a recall, he stated that Schlesinger, the new Director of CIA, whose appointment had just been announced, could be subpoenaed and would go along with it.

Could you speak to that, because that matter undoubtedly will get considerable mileage in the press in the future.

Dr. SCHLESINGER. Yes, sir; I am delighted to speak to that.

In the first place, I noted in the paper the other day that Mr. Alch, the attorney for Mr. McCord, denied the story. I cannot testify as to what conversations took place between those gentlemen.

I have not met any of the individuals mentioned in there. I am not sure I recall them all. I have never met Mr. McCord or Mr. Alch. I met Mr. Mardian, and sat next to him at dinner in San Clemente, or near San Clemente in the summer of 1969. I do not recall having seen Mr. Mardian since that time.

So none of these individuals are people with whom I am familiar in any respect. Nobody has ever made a suggestion to me along those lines.

The sole contact that I have had, which struck me at the time as improper, and in retrospect as perhaps more than improper, was the phone call from Mr. Dean on, I believe, the 9th of February.

Other than that, no one has ever spoken to me about any such activities.

Beyond that, I would say that I am perfectly capable of speaking for myself. If somebody had some suggestion along those lines, they should have approached me, rather than allowing Mr. Alch or Mr. McCord or anybody else to speak in my behalf.

Mr. SLATINSHEK. Dr. Schlesinger, you indicated that in your effort to discover what the extent of CIA involvement might be, you asked everyone in the Agency to execute an affidavit who had any relationship of any kind?

Dr. SCHLESINGER. Yes, sir.

Mr. SLATINSHEK. Do we have all of those affidavits?

Dr. SCHLESINGER. I don't have them here.

Mr. SLATINSHEK. No, no: but the committee has received affidavits from General Walters and from General Cushman, and from Dr. Tietjen, and Dr. Malloy. We have your statement. But are there any others that are available that could supplement our record here?

Dr. SCHLESINGER. I will check on that, Mr. Slatinshek, and any that have not been delivered to you will be delivered to you.

Mr. SLATINSHEK. That is all.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. I would like to follow up on that for the record, Mr. Chairman, thank you.

Doctor, as Mr. Slatinshek brought out, we have come up with this information now during two sessions of the subcommittee. You mentioned you have taken some affidavits from your people. Do we have all of the available information in this committee regarding this whole matter at this time?

Dr. SCHLESINGER. To my knowledge, that is the limitation I must continue to place on these things.

I believe I have a fair degree of confidence we have all of the information now. But there are many rocks and there are many things crawling out from under the rocks.

Mr. HOGAN. Do we have all you have now?

Dr. SCHLESINGER. Yes, sir.

Mr. HOGAN. Pertinent or not pertinent to this hearing today?

Dr. SCHLESINGER. Yes, sir.

Mr. NEDZI. We don't have everything that isn't pertinent.

Mr. HOGAN. That was the statement relative to the pertinency, Mr. Chairman, regarding our meeting last week.

Dr. SCHLESINGER. May I add one word in response to Mr. Slatinshek's earlier question?

As you will recall, gentlemen, the issue became more and more complicated during the course of last week. The previous week we had had what was to me the revelation of the personality profile. General Walters was away at that time. I could only dimly recall the details of what had been said to him, although I began to appreciate the relevancy of that.

I believe it was Wednesday evening, though I must check on my records, it may have been Tuesday evening, I met with Senator Symington and Senator Stennis at the Walter Reed Army Hospital apropos these matters.

At that time we had in preparation, and I went over the next morning, the statement that was given to the Senate Appropriations Committee, which I proceeded then subsequently to read to this group and to the Armed Services Committee.

At that meeting with Senator Symington and Senator Stennis, Senator Symington called to my attention the McCord testimony which I had read very hastily, and I had been rather irritated because of the reference that you have brought out, Mr. Slatinshek. I hadn't paid any attention to it thoroughly.

He said to me at the time—he pointed out to me the allegations that the CIA was the target, and it was only during the course of reflection—and he said to me, "you better dig more deeply, Jim," or some phrase of this sort—it was only at that point that I began to reflect that there may well have been conscious, deliberate exploration of this option.

The statement that I had prepared was of course read and reread. But at that time, I believe it was Wednesday, I sent off the telegram to General Walters to return immediately, and he was back in 20 hours, or some such thing.

The only other evidence I had, following up the suggestion of Senator Symington, that there might be something in McCord's allegation, was the phone call from Dean, aside from the evidence that General Walters had mentioned to me, and which I had forgotten the details of. At the time that General Walters told me about this, he recalls I made some comment to the effect, "This is nice people we are dealing with," or some such thing as that.

The next day—well, there was one other bit of evidence.

I began to reflect on the continued appearance of items in the press hinting at, suggesting, stating, that the CIA was responsible for the Watergate, which then struck me as possibly more than newspaper speculation.

The next morning I told General Walters to go down—I told him to prepare an affidavit, to go down and see Mr. Buzhardt, and see the people at the Justice Department, since he had just come back, to make sure this was now in the record.

I testified that morning before this committee. I believe it was at about that time that General Walters was visiting with Buzhardt and with the people—

General WALTERS. Petersen.

Dr. SCHLESINGER. Petersen. I wanted that material to be available to the Justice Department at as early a point as possible, given the fact there had been a lengthy period of time that had elapsed since that time.

In the afternoon, the first question by the Senate Armed Services Committee dealt with the McCord allegations, and to those allegations, and the question, had I seen any contacts, or any evidence, or some phrase of this sort, I am responding as I am responding now. I can talk of only one thing, and that was a call from Mr. Dean on the 9th of February, from personal knowledge.

Second, General Walters referred last summer, after the Watergate affair, a number of requests, and I did not further discuss them.

I was not in a position to discuss them in detail. I expected that that would be picked up. It was not picked up by the committee.

Consequently, on Monday I brought General Walters along to the Armed Services Committee.

The third item, as I mentioned a moment ago, was, in retrospect, as I contemplated this, this speculation in the press began to appear to me to be possibly more than speculation, and that there does seem to have been conscious exploration of the option of making the Central Intelligence Agency the "fall guy" or the responsible body for the Watergate affair.

When General Walters spoke to me last winter about these matters that thought never occurred to me.

I think that in the events that have occurred in these last 4 weeks, say, that they are astonishing in many respects, and we have absorbed those events, but we would not have anticipated beforehand—I certainly would not have anticipated what I now see that these developments bear every earmark of an extraordinarily complex, a bewilderingly complex operation that was being run.

I could not in February, or at the time I talked to General Walters, have imagined this. I think it was Senator Symington's observation that led me to consider these matters, and consequently felt that it was appropriate to get it first to the Department of Justice, and then subsequently, without hesitation, providing it to the committees in response to those questions.

Mr. NEDZI. Were any reports on this provided to the White House?

Dr. SCHLESINGER. Reports?

Mr. NEDZI. The information that was sent to the Justice Department.

Dr. SCHLESINGER. Yes, sir; Mr. Buzhardt was appointed the special counsel some time last week, I forget just when, and therefore is at the White House.

I talked to General Walters and he indicated that he thought that we should inform General Haig of this material since General Haig was a newcomer at the White House. And he had just arrived and was responsible for bringing order into what was becoming an organizational chaos, and that Mr. Buzhardt, as well, had the responsibilities for pursuing the Watergate matter as well as the Department of Justice.

General Walters, I believe, felt that it would be a courtesy to inform the people in the President's entourage of these happenings so that they would be knowledgeable before something burst upon them, as it were, from some other body.

Mr. NEDZI. Who advised you of Mr. Buzhardt's and General Haig's responsibility?

Dr. SCHLESINGER. Well, that was well known. I attended a Cabinet meeting I believe last Thursday morning when these matters were announced.

Mr. NEDZI. By whom?

Dr. SCHLESINGER. And then subsequently in the press. General Haig's interim selection as the replacement in the White House to take on many of Mr. Haldeman's responsibilities had, I believe, been announced earlier in the week, possibly the previous weekend.

Mr. NEDZI. Was there any formal announcement made to you? Did anybody call you and tell you this is what is taking place?

Dr. SCHLESINGER. No; there was no formal announcement. General Haig called me, and I can check my records, some time the previous weekend and said, "Hello, Jim." I said, "Hello, Al." He said, "Well, I have a new job." And he did not sound overly enthusiastic. And I said, "Oh, I am not surprised," or words to that effect.

That was a most informal announcement. It occurred before the announcement, the formal announcement of this, which was a day or so later.

Mr. NEDZI. What I am getting at is how you consider the scope of Mr. Buzhardt's authority at the present time? Has anybody outlined that to you?

Dr. SCHLESINGER. No; there are no precise definitions that I know of, Mr. Chairman.

Mr. NEDZI. What obligation do you feel to him, in other words?

Dr. SCHLESINGER. On this matter—no particular—

Mr. NEDZI. On any matter.

Dr. SCHLESINGER. On any matter. Well, let me deal with this matter. I don't feel any particular obligation to him on this matter.

I believe General Walters can speak to this, but I think he expressed the judgment that it would be inappropriate to reveal these matters which bore on senior White House personnel without first giving the courtesy to the new personnel in the White House to pass this rather unwelcome information on to the President. And General Walters stated at the time that this was a courtesy, that in no way was he going to be deflected from making these statements. But it was felt in view of the obligation of all of us to keep the President informed on such developments, that we should tell him—

Mr. NEDZI. Directly, or through the people who are there now?

Dr. SCHLESINGER. I think as a practical matter it must be through the people who are there.

Mr. NEDZI. What I am getting at, Dr. Schlesinger, is, we had Haldeman and Ehrlichman and Dean there who made certain representations. What assurance do you have that Buzhardt or General Haig aren't going to come to you and say, "Furnish John Dean with a disguise or something so he can get some evidence on Pat Gray"?

Dr. SCHLESINGER. I have every confidence neither Mr. Buzhardt nor General Haig would do such a thing. But—

Mr. NEDZI. Didn't you have the same confidence about the others before it happened?

Dr. SCHLESINGER. No.

Mr. NEDZI. No?

Dr. SCHLESINGER. I have every confidence, neither General Haig nor Mr. Buzhardt would suggest such a thing. These are extraordinary, thank God, developments.

The reason that they are so disquieting is their uniqueness.

I have every confidence neither of these men would make such suggestion.

If by some stretch of the imagination that should develop, I would have to cross that bridge when I came to it.

Mr. NEDZI. Well, I guess that is a fair response. I can't challenge you on that.

The fact of the matter is, here you had individuals in very high places who exercised unbelievable judgment, and the thing happened. We feel our obligation is to probe and search and try to figure out whether there is some way of structuring the system so it doesn't happen again. I am not at all optimistic we can, but that is a fact.

Dr. SCHLESINGER. There is no foolproof system, those words are not well advised. There is no foolproof system.

We felt in view of the fact this would shortly be revealed to the Congress that information should be made available to the Chief Executive. We certainly felt that his senior personnel would feel in a position, at least they should be informed. Whether they wanted to pass that on to the President or not was their judgment.

I think we were talking about informing General Haig at that point in time. Fred Buzhardt was going over to the White House. He had been charged with these responsibilities. It seemed appropriate to inform him at the same time as well as the people in the Department.

General WALTERS. They were together when I informed them.

Dr. SCHLESINGER. More generally, I feel, aside from this particular problem of the Watergate, no obligation to Mr. Buzhardt or to General Haig other than the fact I regard both gentlemen as friends of mine.

And, therefore, would frequently inform them of certain developments.

Mr. NEDZI. Do you have any further questions?

Mr. SLATINSHEK. No.

Mr. NEDZI. The committee will stand adjourned until further call of the Chair.

Thank you, gentlemen, very much. We appreciate your coming down.

[Whereupon, the subcommittee adjourned subject to the call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Thursday, May 17, 1973.

The subcommittee met, pursuant to adjournment, at 2:43 p.m., in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order.

This afternoon we are continuing our review of the problems involving the Central Intelligence Agency and the Watergate-Ellsberg affairs.

Today we have as our witness Mr. Richard Helms, the former Director of the Central Intelligence Agency, and, Mr. Helms, if you have any statement you would like to make at this time, we would be very pleased to hear it.

**STATEMENT OF HON. RICHARD HELMS, AMBASSADOR TO IRAN
(FORMER DIRECTOR OF THE CENTRAL INTELLIGENCE)**

Ambassador HELMS. Thank you, Mr. Chairman. I don't have a prepared statement. I might speak, however, extemporaneously, if you would like, to see if perhaps some of the points which have been raised I can maybe flush out a little bit. I don't know the extent to which I can do it, but I thought I might start off with what I gather is being referred to as General Cushman's statement about the paraphernalia or equipment that was given to Mr. Hunt, and I believe this has been covered before this committee, has it not?

Mr. NEDZI. Yes. General Cushman appeared before our subcommittee last week.

Ambassador HELMS. Yes, that is what I mean.

I will assume, therefore, that your having read his statement, what I would like to do is to make a couple of comments about it.

I do not remember—and I can say this, having thought about it a good deal—exactly at what point General Cushman told me about his dealings with Hunt.

It shows in the record that at the Agency staff meeting, I believe on the 8th of July, General Cushman mentioned he had had a call from Mr. Ehrlichman at the White House, or of the White House, to say that the White House had hired Mr. Howard Hunt as a consultant, and that Mr. Hunt might require some assistance from the Agency, and would General Cushman provide it?

That shows up in the record, I believe. According to my understanding, Mr. Hunt came to see General Cushman on the 22d of July to ask for certain equipment. The exact date on which General Cushman told me about this, I simply do not recall, and I don't believe that he recalls with any accuracy, either.

My recollection of the event was that he told me that he had authorized Hunt's having a camera, and a tape recorder. My recollection also is that I asked General Cushman at that time, are these classified items? In other words, are they items that could only have been manufactured in the Agency, or are they items that are available in the general market? And he assured me they were items available in the general market.

It struck me at the time it was a fait accompli here; in other words, the equipment had been given to Hunt, and there we were. This is my recollection of it at the time.

I do not recall specifically assenting to the operation. I just simply felt something had happened and had been done.

Some time later—and I don't know how much later—I got a memorandum which said Mr. Hunt had asked for a secretary who was working in our station in Paris. As I recall it, this was an individual, whose name I do not remember, who Mr. Hunt had known, and he wanted her brought back from Paris and assigned to him at the White House.

In other words, I was very surprised by this, because I could see no reason to bring a person back from Paris, and so I also noticed in this memorandum he had been making other requests on the Agency. So I spoke to General Cushman and said, "This is simply something I will not approve. I want you to get in touch with Mr. Ehrlichman and just have this whole thing stopped. There is no reason why we should provide all these facilities and a secretary, and so forth, to Mr. Hunt. I would appreciate it if we could get this thing stopped right here and now."

Subsequent to this, I received a note from General Cushman saying he had talked to Mr. Ehrlichman, that the whole business had been stopped, that they were no longer required to support Mr. Hunt. I said, "Good, that is fine. I am glad to be shed of this."

In this general connection I would like to put one thing clearly in perspective, that at that point in time there was never the slightest intimation or indication that anything—what Mr. Hunt or anybody else was doing was illegal, improper, or anything else. We didn't know what his assignment was. We had not been told, or General Cushman had not been told specifically what he was to use the equipment for. He was supported by a high-level representative of the White House, and up to that time we provided him with nothing, as I say, he couldn't have found elsewhere. But these escalating demands and the seemingly imposing or using the facilities of the Agency when, if he had these things to do, he could have gone elsewhere, seemed to me to be getting into an undesirable area. I didn't know where it was going, I didn't like it, and I asked it be stopped.

I believe that this all came to an end at the end of August 1971. That is my recollection.

Now, I would like to make one other point to the committee: I was in Shiraz, Iran, not last weekend but the weekend before, and I picked up an English language newspaper and saw to my horror that a burglary had been made on the psychiatrist of Dr. Ellsberg. I couldn't believe my eyes. I didn't know Dr. Ellsberg had a psychiatrist, but there had been a burglary and, right in the same sentence, accomplished with CIA equipment.

I can assure the committee that at the time all of these demands by Mr. Hunt were being made there was never the slightest intimation there was anything illegal contemplated. I can only say that if we had the benefit of hindsight, maybe we should have asked a lot more questions. But it is pretty hard, I submit in evidence, when the top man in the White House asks for some support and assistance, it is given to him. I must say, gentlemen, in the long time I have served in the U.S. Government supporting the President, I was not regarded as an undesirable agent. In fact, it was expected of us, as long as it was not for an illegality or something of this kind, which I have never been asked for by a President before, or by any of his associates. I want to simply get it on the record right now, I am just as surprised as everybody else that illegal acts took place.

Would you like me to move on now to another area, or did you want to speak about this one, Mr. Chairman?

Mr. MELVIN PRICE. Mr. Helms, the first knowledge you have of the burglary of the psychiatrist's office was when you read it in the English language newspaper in Iran?

Ambassador HELMS. Yes, sir.

Mr. NEDZI. Two weeks ago or so?

Ambassador HELMS. It was a week ago Sunday, to be precise.

Mr. BRAY. Then there was nothing that you gave Hunt regarding—at least aside from the psychiatrist's office—he couldn't have bought at any first-class department store?

Ambassador HELMS. I don't know whether a department store, but a toy store, or some kind of a store.

Mr. BRAY. There is nothing unusual about a tape recorder, you can use it as well as anyone else. You don't have any special cameras?

Ambassador HELMS. No. This was a camera one can buy.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. What about the red wig he is supposed to have gotten? Was that mentioned as a viable item or item of equipment?

Ambassador HELMS. I do not recall in my conversation with General Cushman about the disguise. I don't know whether he mentioned it to me or not. I since have learned in talking to people the last couple of days, the wig given to Hunt by the Agency was a black wig. Where he got the red wig, I don't know.

Mr. BOB WILSON. At about this time, and this was in 1971, the Pentagon Papers issue was out in the open?

Ambassador HELMS. Very much, and the White House was very concerned about leaks, and so forth.

Mr. BOB WILSON. And also the President was engaged in the SALT negotiations, isn't that right?

Ambassador HELMS. Yes, sir.

Mr. BOB WILSON. So in your area, in dealing with matters overseas, you have no knowledge whether the White House was trying to do some work on their own in connection perhaps with some overseas activity?

Ambassador HELMS. I had assumed since this is what they employed Hunt for, and when I found—you know, months later, he was involved in domestic activities. I must say this really surprised me.

Mr. BOB WILSON. It seems so ridiculous to send somebody to be supplied with an ordinary item. There was no particular security in the

type of tape recorder or type of camera or the type of wig used. It make no sense at all trying to tie in an Agency like yours with that kind of activity.

Ambassador HELMS. It doesn't make any tie-in, it was simply a convenience.

Mr. BOB WILSON. Probably a way to save a few bucks.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. In regard to what you saw in the paper in Iran, what equipment did they say—

Ambassador HELMS. Mr. Bray, the papers in Iran are rather small. This was, I think, in a press association item of about one sentence among a whole lot of other items.

Mr. BRAY. Of course abroad anything that has to do with intelligence is—for the foreign country, it thinks of it as a CIA activity, just like we think anything in Russia is the KGB?

Ambassador HELMS. I want to say the news report I read was from the Associated Press, I believe. It was an American report printed in an Iranian newspaper.

Mr. NEDZI. Mr. Helms, did you ever receive any call from the White House on this subject?

Ambassador HELMS. No, sir.

Mr. NEDZI. On the Hunt matter?

Ambassador HELMS. No.

Mr. NEDZI. Can you speculate on why General Cushman was contacted and not you for this kind of support?

Ambassador HELMS. Yes, I can speculate, Mr. Chairman, but I believe I would ask the committee to realize it is speculation because I have no basis for these statements.

I assumed a couple of things. One, that maybe he was available and I was out of town, you know. This could have been one of the things because I had made a trip to the Middle East and had come back. I don't know whether I was in town at this particular moment or not. But that is one possibility, if I wasn't there. White House calls went to him. Because, you see, the first call from Mr. Ehrlichman went to him on the 8th of July. I think I had just come back from this trip, or the 7th of July.

Mr. NEDZI. I think it was the 7th of July.

Ambassador HELMS. I think I had just come back.

But in any event, they may also have wanted to, or assumed since he was an appointee of the administration, that perhaps he was easier to talk to than I was. I just don't honestly know. Or maybe he was a military man and would be more responsive to instructions or orders. These are all speculations, but I am reaching, I don't know what else to reach for.

Mr. BOB WILSON. It is well-known, of course, General Cushman was an aide to the President when he was Vice President and would have known the people on the President's Staff.

Ambassador HELMS. Mr. Ehrlichman knew him far better personally than he knew me.

Mr. NEDZI. Did you ever have any other requests from the White House for support on any kind of project before this case?

Ambassador HELMS. Well, Mr. Chairman, I don't know quite how to answer that, because you know there is a constant stream of requests that come in from the White House to the Agency for reports of one kind or another, for studies, for help to the Secret Service, for a whole variety of things that make it a little difficult for me to isolate something that would be in the same general category. I don't recall anything in this particular category. But, for example, every year we make all those buttons the Secret Service men wear, we make their credentials and do a lot of printing for them, and so forth, which we all do for free, simply because the White House asks us to do it. I don't think it is something that is our real function. And there are things like that from time to time.

Mr. NEDZI. Anything that can be construed as being involved in domestic security matters?

Ambassador HELMS. I don't recall any right now, sir.

Mr. NEDZI. So this was a unique incident?

Ambassador HELMS. I think so.

Mr. BOB WILSON. Mr. Chairman, I would like to ask, was it at any time pointed out to you it was for local use, or the intended use was never made clear?

Ambassador HELMS. It was never made clear as to where or who.

Mr. NEDZI. When General Cushman reported this to you, what went through your mind at that point? Wasn't there any concern about why they would want this kind of material?

Ambassador HELMS. I suppose that, you know, it did go through my mind, but I think, as best I recall it, I was more interested in the time in what had been asked for, whether this was all right, and why we were being asked for it, not so much as to whether it was good or bad, legal or illegal, but why were they picking on us? In other words, why were they using us?

You know, when you serve in the Directorship at the Agency you get used to having a lot of very strange requests put to you from time to time that you just wonder what occurred to people when they asked you to do X, Y, or Z, and, therefore, one is rather spasmodically pushing off requests which don't seem to make sense, or which somebody else can do as well or in somebody else's jurisdiction. So that all through my Directorship I felt preoccupied with this as a problem, to the very reason which we are now being criticized for we didn't get the things we were supposed to be in.

Mr. BRAY. Previously you denied the requests?

Ambassador HELMS. I don't recall any requests of this particular kind, and since I hadn't had a chance to deny this one up to that point, I hadn't obviously denied it.

Mr. NEDZI. Are you saying that you learned about it—

Ambassador HELMS. After the fact. I don't know how much after the fact, but after the fact.

Mr. NEDZI. After the fact of what?

Ambassador HELMS. After the fact of General Cushman's having instructed the Technical Services Division to give the equipment to Hunt.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Yes.

Mr. BRAY. Did you know Hunt?

Ambassador HELMS. Yes, sir.

Mr. BRAY. How long was he in the Agency?

Ambassador HELMS. Oh, a long time. I have forgotten the exact number of years, I think around 18, something of that kind. Maybe the record shows this somewhere, because this has come up before.

Mr. MELVIN PRICE. More than 20 years of service?

Ambassador HELMS. Was it more than 20 years?

Mr. MELVIN PRICE. Yes.

Ambassador HELMS. A long time, anyway.

Mr. NEDZI. Did you ever give Hunt a letter of recommendation which he could use in securing employment?

Ambassador HELMS. I don't know, sir. I was inquiring about that the other day. When I got back here it was someone, I forget now who raised this question with me.

I know that I was listed as a recommendation for him in his application for employment, but that was a perfectly normal thing which would never have caused any comment, because people who had worked in the investigating part of the Agency had to refer to somebody without identifying friends doing investigative work, the normal thing to do is mention the Director if you knew him, or the Director of Personnel, things of this kind, rather than a third person. There was nothing extraordinary about that. I may have written a recommendation for him to the Mullen Co. One of my associates asserts the Mullen Co. says I have a letter. Quite likely there is no reason why they shouldn't. As far as I knew, he was a straightforward employee. He was a bit of a romantic, and I think had outsized views of his own capabilities which didn't match his capabilities. There was nothing about his record which would stop me from saying "Here is a man who writes very well," because he does write very well. This was a public relations job.

Mr. NEDZI. You regard the letter which was given to Mullen as something fairly perfunctory?

Ambassador HELMS. Routine, if indeed I gave one.

Mr. BRAY. What kind of work did he do with the CIA?

Ambassador HELMS. He had a variety of assignments overseas.

Mr. BRAY. Most of the work overseas?

Ambassador HELMS. Yes, he worked in Washington for a time. In his latter period with the Agency his daughter had a bad automobile accident, as a result of which she developed a lot of psychiatric difficulties. He built up a lot of medical bills, and was involved in a suit trying to get some money back from the other person in the accident, I believe.

Mr. BRAY. That had nothing to do with the CIA work?

Ambassador HELMS. No, it had to do with the fact in his last years with us he was rather distracted by these events, and I don't think necessarily was pulling his full weight in the boat.

Mr. BRAY. What was his background before he came to the CIA, if you know?

I wonder what kind of a man he was.

Ambassador HELMS. I think he was a newspaperman. I think he worked for Time magazine at one point. That sticks in my mind.

Mr. BRAY. He worked several hours, did he?

Ambassador HELMS. I believe so. He was a pretty good writer.

Mr. BRAY. He wanted to act out the story, did he?

Ambassador HELMS. I guess so. I am afraid maybe this took over in his life.

Mr. NEDZI. You said that you asked that it be stopped. Was that the way it occurred?

Ambassador HELMS. I wanted to give you the best of my recollection.

General Cushman and I had a talk, and I asked him to please call Ehrlichman and tell him Hunt could not have this secretary, and I thought the support to him should be stopped. This is my best recollection. General Cushman, with whom I happened to speak this very morning, remembers my having a conversation with him. He thinks he was the one that took the initiative to have it stopped. Now, when two men who work together have a conversation of this kind, which is the chicken and which is the egg, to get a certain result, is sometimes unclear to you years later. My recollection is the one, his is the other.

But I believe I am right about this, because I remember that this really hit me about the secretary from Paris. I thought that was going far too far.

Mr. BOB WILSON. Is it fair to say there is general agreement between both of you that it should be stopped?

Ambassador HELMS. Yes, sir.

Mr. NEDZI. When did the request for the secretary come? That wasn't the one—that wasn't what caused General Cushman, according to his testimony, to stop the matter.

Ambassador HELMS. Am I wrong that the secretary request came sort of in August some time, and then there was a subsequent request for other back-stopping that he wanted, and this, to my mind, tied all together at some point.

Mr. NEDZI. My recollection was that he had—all this occurred—

Ambassador HELMS. Do you have some documents there, Mr. Chairman? If you do, please, I will submit to the documents.

Mr. NEDZI. Hunt had also asked that the Agency arrange a back-stop, to back-stop the New York phone number better through an answering service there or by a hookup which would permit the New York number to be answered in Washington. Hunt also wanted the Agency to arrange for a New York business office to acknowledge him. [Deleted] said this service was beyond the CSD's capability and would have to be handled by the Office of Security.

And this was on 26 August—

Ambassador HELMS. Wasn't the secretary business before that? Is it in the same memorandum?

Mr. NEDZI. My recollection is the secretary request came some time earlier.

This was the request which apparently triggered General Cushman's response, and his saying that, I think, immediately stopped all relationships with Mr. Hunt and he gave instructions to that effect to the Agency.

Ambassador HELMS. Well, as I say, I thought that the secretary business came a little bit before, and by the time they had written the memorandum and pulled it all together there was a pile of these additional facilities that he wanted and that was what I reacted maybe to all of it at once. But I remember the secretary thing particularly as seeming to me to be ridiculous.

Mr. NEDZI. The memorandum seems to support General Cushman on this, in that he contacted you subsequent to calling Ehrlichman.

Ambassador HELMS. Mr. Chairman, please, it was not my intention to want to put the facts in such a way that he would be supported or not supported. I simply wanted you to know I was reacting to something and he was reacting to something, and we got together on the solution.

That is the best I can do.

Mr. NEDZI. Mr. Helms, I want to keep the record clear here.

Ambassador HELMS. I have no reason—

Mr. NEDZI. He did make the statement, "I asked that it be stopped."

Now, at the time, apparently there was nothing to stop if General Cushman had in fact already contacted Mr. Ehrlichman and told him that. The memo which he had sent dated August 27 said "I called John Ehrlichman Friday and explained why we could not meet these requests. I indicated Hunt was becoming a pain in the neck. John said he would restrain Hunt."

Your initials are on here with the word "Good."

Ambassador HELMS. Yes. My conversation with him was a little earlier than that.

Mr. NEDZI. It was earlier than that?

Ambassador HELMS. Yes.

Mr. NEDZI. In the course of this incident there were no contacts between you and the White House, I take it?

Ambassador HELMS. No, Mr. Chairman, to the best of my recollection there were not.

Mr. NEDZI. Were there any contacts with anybody else who had anything to do with the furnishing of equipment or material to Hunt?

Ambassador HELMS. The only persons I talked to were General Cushman, and I may have had a word or two with his staff assistant who was writing the memorandum for him.

Isn't there a name of Karl Wagner on one of these memoranda, and I wouldn't want to—because they had offices right next to each other. He might have brought the memorandum in, or something of this kind, and I might have discussed it with him.

Mr. NEDZI. Do you recall any discussions on this?

Ambassador HELMS. With him?

Mr. NEDZI. Yes—with anybody.

Ambassador HELMS. No, not outside those two. I didn't discuss it with anybody outside of those two as far as I can recall.

Mr. NEDZI. The thing that is bothering me is that this is such an unusual request, and I understand the context and everything, and how valuable hindsight is, but that there wouldn't have been greater concern on your part.

Ambassador HELMS. I am sorry, Mr. Chairman, but when supposedly honorable people ask you to do something, and they tell you it is in the national interest, and the White House wants to get it done, and so forth, we are inclined to acquiesce if we can.

Mr. NEDZI. Why don't we move on, then, with the next point that you want to volunteer in your statement.

Ambassador HELMS. The next point I was going to take up was the question of the personality profile, or however it has been referred to, on Dr. Ellsberg.

As I recall the chain of events, Mr. David Young, who I had known when he was on Dr. Kissinger's staff in the White House, informed me that he had been either transferred or loaned from Dr. Kissinger's staff to Mr. Ehrlichman's staff to do work on classification procedures, general security practices, stoppage of leaks, things of this sort.

He was going to work directly for Mr. Ehrlichman on this.

At some point he said to me that he needed to make a study in the Government of how various classification procedures were carried out, what security practices were, how material was safeguarded, classified material, and asked to be put in touch with our Director of Security, Mr. Howard Osborn. I spoke to Mr. Osborn and asked him to collaborate with Mr. Young. It seemed to me to be a perfectly legitimate thing for the White House to look into, how various agencies of the Government classified their papers, where they kept them, and all of these things, plus the fact that we have a statutory responsibility, as you are well aware, for the protection of intelligence sources and methods from unauthorized disclosure, and, therefore, these leaks were not only a big thing at the time, and a deep concern to the White House and the rest of the Government, as they certainly were to me because I felt some responsibility for doing something about them if I possibly could. I would like, Mr. Chairman, to put a parentheses in here now to say that as a citizen who is no longer involved in the Agency, I think it would be well to look at that provision of law as a charge against the Director of Central Intelligence, because he has no investigative power, he has no facilities for looking into who might have leaked what, and when classified papers disappear, or the stories appear in the New York Times, or whatever the case may be, all he can do is wring his hands and check around with other Agencies of the Government and ask who might have talked to that reporter, and so forth, but he has no way to really follow up. So he has a charge against him which he has an awful time trying to fulfill. That is the end of my parentheses on this.

So Mr. Osborn and Mr. Young did have some conversations, and I think as far as I know, Mr. Osborn gave Mr. Young the things that he requested, the regulations, and so forth.

Toward the end of July of 1971, Mr. Osborn told me that Mr. Young had requested a personality assessment on Dr. Ellsberg. As I recall, my recollection at the time, I said, "Why should we do a personality assessment on Dr. Ellsberg? We know nothing about the man. There is no material in this Agency on him. He never worked for us. We don't keep material on American citizens. Why would we be doing something like that?"

When I talked to Mr. David Young about this, who had asked Mr. Osborn to do it, he said that he had—when he was on Dr. Kissinger's staff—he had seen some personality studies we had done on foreign leaders, one particularly on Fidel Castro, and the White House badly wanted something of that kind done on Dr. Ellsberg in connection with the general approach they are making to the whole leak of the Pentagon Papers and leaks about the SALT talks and various other things. The only place he knew where there were facilities for doing this kind of a study, and they very much wanted the Agency to do it, that it had the highest White House level support, and so forth. So

I said, "I don't see how we can do it if we don't have the material." "So we will provide the material." So through Mr. Osborn, material was provided to the doctors who were to do the study.

I have checked to find out that one study was done and returned to the White House and was judged by Mr. David Young to be inadequate.

So, the doctors got together with him, and they told him that they were concerned about their ability as professionals to do a proper job without adequate inputs, without adequate information, and if he couldn't supply any more they couldn't do any better than they had done already, and apparently, from what I understand, he provided some additional information based on which another effort was made at this study.

I now come to one particular point I want to make.

I learned this week, when I returned from Iran, that Mr. Hunt was involved in some of these conversations with the psychiatrist, but I was never told that Mr. Hunt had anything whatever to do with this personality assessment. In other words, this is totally new to me as of this week.

So that I never tied Mr. Hunt into this thing at all. This was Mr. David Young who had asked for this on behalf of Mr. Ehrlichman, and so on, and I knew nothing about Hunt's involvement in it.

This is particularly important at this juncture because I never tied Hunt into the personality assessment. Quite frankly, I had forgotten about it, and when I read about this thing in some paper before I left Iran, I almost dropped my teeth, or maybe somebody told me this. I can't remember whether I read it or was told about it, but I, frankly, had forgotten about the whole thing.

In other words, despite the reservations, my own reluctance, and all the rest of it, when it was finished it was finished.

I might say that this comes in a very gray area, because a personality assessment is not a document that involves policy or doing anything to anybody. It simply is a recital of a man's profile, how he reacts, and things of this kind. It is a delicate area, I quite confess. But it isn't a harmful area. In other words, it is not doing anything to anybody.

Now, I know that the doctors were concerned about this, because at the time that they were finishing up the second profile this was brought to my attention by one of their superiors, and I pointed this all out to David Young orally. I said they were concerned about it. If he insisted on having this, if the White House needed it, we would deliver it, but we didn't want the CIA connected with it because the doctors didn't believe they had been given an adequate chance to do a good professional job. I reminded him of this in a note I sent to him. I have since seen this note.

Mr. NEDZI. Is that the only reason you didn't want the Agency connected with it?

Ambassador HELMS. It was my recollection that was in my mind at the time. In other words, I was not preoccupied with the fact I had done something necessarily illegal, because, as far as I knew, it wasn't illegal.

But I wrote a note. I have since read that note. It is a most unfortunately worded note.

I have been through this at quite some length in one committee already, and if I had the note to write over, I would write it differently, but it was a follow-up to a conversation I had with Young, which was going to be quite clear to him what I had in mind because of my conversation with him. It is the kind in retrospect when you read it a couple of years later looks rather bad.

Mr. NEDZI. Are you referring to the November 9 letter you sent to Young?

Ambassador HELMS. Yes.

Mr. BOB WILSON. Why don't you read that, Mr. Chairman?

Mr. NEDZI. The letter is directed to Mr. David Young, Special Assistant for the National Security Council, Room 16, Executive Office Building, Washington, D.C.

Dear David: I have seen the two papers which Dr. Malloy prepared for you. We are, of course, glad to be of assistance. I do wish to underline the point that our involvement in this matter should not be revealed in any context, formal or informal. I am sure that you appreciate our concern.

Sincerely, Richard Helms, Director.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Yes.

Mr. BRAY. I can't see that is anything unusual.

Mr. BOB WILSON. That is the kind of letter I would write.

Mr. BRAY. Yes, I think I would, too. It is a matter you were asked to do but you don't want to get mixed up in a psychiatric study if you don't have psychiatrists.

I notice one thing here, though, in Hunt's biography, why he might have been called in on this profile of Ellsberg. He was a consultant with the Defense Department in 1960 to 1965. That was the same time that Ellsberg was a consultant for the Defense Department.

Ambassador HELMS. Mr. Bray, I am not sure whether that was a cover for CIA work or not, it might have been.

Mr. BRAY. I don't know. I was just noticing, although in "Who's Who," I wouldn't think they would be putting coverups exactly, if this does appear this way in "Who's Who," because it would attract attention, and would not be a very good idea of a coverup because the whole world has that. If I were to realize Hunt was in "Who's Who," a long time ago, hearing his name, I would have looked that up.

So Ellsberg was a consultant with McNamara and one of the so-called Whiz Kids.

Ambassador HELMS. Yes.

Mr. BRAY. That was a rather common name given by certain persons to that group of individuals. He might have been in position to have known a great deal about Ellsberg. I have no idea, but that impressed me as to why he might have been a consultant at that time. It is just a guess.

Ambassador HELMS. Incidentally, since this question has been raised, I was never asked by the White House about Mr. Hunt before he was employed there. I mentioned this to the committee, because I saw it asserted in a newspaper article some time in the recent past that I had recommended him. I did not recommend him. I was never even consulted.

Mr. NEDZI. I think the recommendation part of the article pertained to a recommendation to Mullen and company.

Ambassador HELMS. Not the one I saw, Mr. Chairman, since I read it twice. I looked at it and thought, well, now——

Mr. BRAY. Mr. Chairman, I am certainly not a personnel expert, but I would say with this information, in "Who's Who," I certainly would not recommend him for a position of that kind no more than I would recommend Mitchell and Martin for the security outfit, and everything you found in the report was just screaming that he wouldn't be appointed to a place like this. Maybe we better get some better personnel around there.

Mr. NEDZI. Is there something you wanted to add to this point?

Ambassador HELMS. I think that covers the essential elements of this matter, at least that I wanted to speak about, Mr. Chairman.

Mr. NEDZI. This profile matter was instigated by Mr. Young?

Ambassador HELMS. Yes, sir.

Mr. NEDZI. He called you?

Ambassador HELMS. He called Mr. Osborn.

Mr. NEDZI. He called Mr. Osborn?

Ambassador HELMS. And Mr. Osborn checked it out with me before he went forward with it to the psychiatrists who prepared the profile.

Mr. NEDZI. Did you ever talk to Mr. Young?

Ambassador HELMS. Yes, sir, several times.

The conversations that I had at the White House were with Mr. Young about this point, about the fact, why were we being asked to do this, and so forth. What I said a few moments ago.

Mr. NEDZI. This was subsequent to the original request?

Ambassador HELMS. Yes.

Mr. NEDZI. Let me understand.

Mr. Young called Mr. Osborn.

Ambassador HELMS. Yes.

Mr. NEDZI. That is what initiated the whole matter?

Ambassador HELMS. Yes, sir.

Mr. NEDZI. Mr. Osborn then contacted you and advised you of this?

Ambassador HELMS. That is right, sir.

Mr. NEDZI. To which you responded in what fashion?

Ambassador HELMS. I said—I got on to Mr. Young and asked him——

Mr. NEDZI. You called Mr. Young at that point?

Ambassador HELMS. Yes. And said, "Why are we being asked to do this? We didn't know Mr. Ellsberg. We didn't have any information about him. He was not a person that we had had anything to do with, and why were we being asked to make a study of this kind?"

It was then that he explained all these things about the security leaks, and it was a high-level thing, and there was a study being made at the White House about the whole Pentagon Papers business and they needed this profile in order to have one aspect of the study that was being made.

Mr. NEDZI. And in the course of this study which was being conducted by the CIA, a number of individuals expressed misgivings about the whole project?

Ambassador HELMS. Yes, sir, including me.

Mr. NEDZI. Did the doctors express only professional or scientific misgivings?

Ambassador HELMS. Well, they expressed those, and I think the doctors had some questions in their minds about the propriety of doing this on an American citizen.

Mr. NEDZI. Didn't others in the Agency also have that kind of opinion?

Ambassador HELMS. There weren't many other people in the Agency involved in this. There was Mr. Osborn and then the doctors——

Mr. NEDZI. How did he feel about it?

Ambassador HELMS. I don't recall. I think he was simply being a conduit in this case. I don't think he had an opinion particularly one way or the other.

Mr. NEDZI. That is your response, I understand, but according to the doctors, they indicated that he was very reluctant to proceed in the matter, and insisted nothing be done without your OK?

Ambassador HELMS. Well, I think that was proper from the standpoint of his having to check it out with me. But if he expressed those concerns to the doctors, I don't recall his having expressed them to me, he didn't say to me he didn't say that to the doctors.

Mr. BRAY. Mr. Chairman.

Did I understand you earlier to say you have no investigating process within the Agency to process your own problems, that is, as to leaks and things of that kind?

Ambassador HELMS. You see, Mr. Bray, we don't have any arm of the Agency——

Mr. BRAY. I realize——

Ambassador HELMS [continuing]. To investigate in the United States. We have a Security Office which goes around making personnel checks and things of this kind, but they are not authorized to go out and check up on newspapermen or things of that kind, make that type of investigation. That is within the aegis of the police, or the FBI, or somebody of this kind.

Mr. BRAY. You have to be very careful to extend—that in extending that power. But it seems to me something at least ought to be considered for an effective organization, to be very limited in the scope, yet taking care of leaks within your own department. Like one would say, there is a small group of Army in the protection of the headquarters, but yet not on a big scale. Of course at this time, any legislation that might deal with that matter would be subject to a great deal of suspicion.

Ambassador HELMS. I agree. Inside of the Agency we can interrogate people, speak with them, and do things of this kind with our own employees. But once we get outside of the Agency, we may not do it.

Mr. BOB WILSON. Are you permitted to call FBI?

Ambassador HELMS. We can ask the FBI, but when it comes to the investigation of leaks, the FBI is very reluctant to undertake those.

Mr. BRAY. Legislation might be worked out in that field. The principal thing is investigation and study to determine legislation, I think that is right, that is what congressional hearings are for.

There might be something worked out. I am just thinking out loud, whereby in writing the Chief could make a request, knowing the extent and scope of it, to the FBI, say, to make certain investigations. And then you would know where you were. They would know where they

were. And then the matter would be in writing. If it ever came up for study everybody would know who did what to whom.

Mr. NEDZI. Mr. Bray, I wanted to follow Mr. Helms' lead, when the White House called. We will excuse Mr. Helms to make his call. There may be some urgency, and we will continue afterwards.

[Whereupon, a short recess was taken.]

Ambassador HELMS. Thank you, Mr. Chairman.

Mr. NEDZI. Mr. Helms, were you aware of any other officials of the White House being involved in this Ellsberg profile?

Ambassador HELMS. No, sir. Mr. David Young was the only one I dealt with on it, and I thought he was the only one involved in his relations with the Agency.

Mr. NEDZI. He was informed that he could deal with Mr. Osborn, and Mr. Osborn was given instructions that he could deal with Mr. Young?

Ambassador HELMS. Yes.

Mr. NEDZI. Wasn't Mr. Osborn keeping you apprised of what meetings and dealings were taking place on this profile?

Ambassador HELMS. I don't recall that he did. As a matter of fact, it is my impression that Mr. Osborn, being simply a telephone number at the Agency that would be called in this connection, stood aside from this procedure after it got going except to be a conduit for the papers going down to the White House. I think the doctors got in touch with Mr. Young while the profile was in progress in order to get more information based on which they could write the second profile.

Is there anything that you have that indicates that I am not recalling this accurately?

Mr. NEDZI. Well, it is not necessarily contrary to what you have just said. But Mr. Osborn has prepared an affidavit in which he says, "Within a few days I discussed the request with Mr. Helms"—request for the Ellsberg profile—"and he reluctantly approved the preparation of the profile with the stipulation nothing should be sent to the White House in this regard without his personal prior approval."

Then on August 10, 1971, "I had previously reviewed a rough draft of the assessment from a security point of view. I cleared the assessment with Mr. Helms, the Director."

Now, that suggests that there was some kind of continuing dialog—

Ambassador HELMS. Oh, sir,—

Mr. NEDZI [continuing]. With your office.

Ambassador HELMS. I wasn't denying Mr. Osborn may have spoken with me at various times about this thing. I was simply trying to say that nobody briefed me about the meetings between the doctors and Mr. Young in the White House. This is all I was saying. I don't recall anybody having done this.

Mr. NEDZI. What was Osborn talking about with you, then, during these meetings?

Ambassador HELMS. I am sorry, I am not doing a very good job, I guess, of making myself clear.

Mr. Osborn came to me when the original request was made. I talked to Mr. Young about it. I okayed their going ahead with the request. I knew that one profile went down to the White House after it was finished, that it was regarded by Mr. Young as being inadequate.

Another profile was requested and required, I understood that at that point, since the doctors did not have enough information to write a second profile, that they had a meeting with Mr. Young to request further information and to point out to him why it was they couldn't do more work without more information.

But I don't recall at that time being briefed about these meetings, and I know nobody told me that Mr. Hunt was at any of them, which I have now learned within the past week was the case.

Do any of the doctors say who was present at those meetings?

Mr. NEDZI. Yes; they do.

Ambassador HELMS. They would know. That is fine with me. I mean I don't have any reason of any kind to doubt their word.

Mr. BOB WILSON. You had other things going on at the same time, didn't you?

Ambassador HELMS. Oh, yes, sir; I lived a very busy life.

Mr. BOB WILSON. I can understand. I am not trying to put suggestions in your mouth, or even argue with our chairman, because I know he wants to get to the bottom of this. So do all of us. But I do think we must maintain a sense of fairness as far as the apparent triviality of the requests and the triviality of the actions. I can understand why it is something for the White House to say "I want a camera and a thing for some man." They wouldn't tell them what for. Or they wanted a personality profile. The fact he didn't approve of the idea, and they say he didn't, indicates he recognized it was an improper request. But if I were in the same spot, I know I would say if the President wants it, he must have a reason, it is not up to me to request it. And as far as—

Mr. NEDZI. Mr. Wilson, let me just comment this way:

I have known Mr. Helms for a number of years, and have the highest respect and regard for him. I am not enthusiastic about the program here this afternoon at all. But these are questions that are being asked, and we have to assume the role of the devil's advocate, and I trust that everybody understands that it is with that kind of motivation that we are involved, because otherwise we are open to the charge that this is a whitewash of some sort. Thus far I can truthfully say that the Agency's responses to our subcommittee have been entirely satisfactory. When somebody asks me about it, I respond that way, and for every hooker that they think they are throwing at me, I have an answer.

So if you feel there are any hookers, Mr. Helms, it is with that background that I hope you accept it.

Ambassador HELMS. Thank you, Mr. Chairman.

Mr. BRAY. Mr. Chairman. I think I am following this correctly.

Mr. Helms reluctantly agreed, but he wanted to approve any report that was sent down.

I suppose any staff officer, if the report was going to the boss man at the top, he would want to make sure that he checked it before it went. Is that the spirit in which you did that?

Ambassador HELMS. That is right, sir.

Mr. BRAY. Then later it does say you approved the report.

Ambassador HELMS. When I saw the report. Obviously, what I had on my mind was that since the request for this had come from Mr. Young to Mr. Osborn to the doctors, that I wanted to be sure when it was all finished they didn't think I had given tacit acquiescence to

their sending it right back on the same channel. I wanted to be sure I saw it, because if it was not some sort of a respectable piece of work, or if it had something in it that seemed to me that would be offensive or something of that kind, I wanted to have the veto.

Mr. BRAY. It was a rather unusual procedure and you wanted to OK what happened personally, it was not routine, is that right?

Ambassador HELMS. That is right.

Mr. BRAY. I understand.

Mr. NEDZI. Did you know Mr. Osborn very well?

Ambassador HELMS. I had known him over a period of years, because we worked in a part of the Agency of which I was in charge at one time. I didn't know him well. It wasn't a question of his going to my house and me going to his. He came into the building and I saw him from time to time on matters of business, so I did know Mr. Osborn, as I knew so many people out there. I would think—well, I have never been in his house, he has never been in mine. I guess maybe I have seen him at a cocktail party or something maybe once or twice in all those years, quite outside the business relationship.

I can't recall having met his wife, maybe I have.

Mr. NEDZI. Did you have occasion to work with him in the Agency?

Ambassador HELMS. Not on specific things, no.

Mr. BOB WILSON. Mr. Chairman, I wonder if I might just explore one little different portion.

Dick, this is a personal question. If you don't want to answer it, I would be perfectly comfortable if you said I were not to ask the question.

Is there any feeling in your mind that your removal from the Agency and assignment to another activity reflected in any way the feeling that perhaps the White House was unhappy with you because you hadn't fully cooperated in their various requests?

Ambassador HELMS. I don't have any reluctance to answer the question because—not because—but I simply do not know. When the President and I discussed my leaving, these matters were not mentioned. I don't think that is breaking executive privilege. I just want you to know it wasn't discussed, so I have no way of knowing what were all of the things that were in his mind.

Mr. BOB WILSON. You have a feeling your lack of cooperation—

Ambassador HELMS. I was never one of the team. I was a leftover from President Johnson's administration and I had served 4 years in President Nixon's, and I rather gathered they wanted their fellow in the job. I put the "their" in quotes.

Mr. BRAY. You mentioned to me Shiraz in Iran.

Ambassador HELMS. I am delighted to be where I am and I am trying very hard to get back there. [Laughter.]

Mr. NEDZI. Mr. Helms, did you meet with Mr. Young at any time in Mr. Ehrlichman's office?

Ambassador HELMS. I wouldn't be surprised. I think as a matter of fact—well, Mr. Young at one time had an office just outside Mr. Ehrlichman's office. You could see it as you walked through to Mr. Ehrlichman's office.

Mr. NEDZI. Mr. Osborn in his affidavit said "In August 1972 I attended a meeting in Mr. Ehrlichman's office with Mr. Helms. Mr. Egil Krogh, and Mr. David Young were also present."

Do you recall that meeting?

Ambassador HELMS. Yes, I do recall the meeting. I am trying as you are reading to remember exactly—oh, I think that must have been a meeting that had something to do with classification, or the new classification regulations or something they were going to bring out, but I am not sure. I do remember the meeting.

Mr. NEDZI. It was unrelated to the profile?

Ambassador HELMS. To the best of my recollection, Mr. Chairman. It had nothing to do with that.

Mr. NEDZI. Do you have any additional comments?

Ambassador HELMS. I just want to go along now, sir, at your pace. The next item I had on here was the general area in which General Walters testified before this committee, because his testimony is a lot fuller than mine, because he was the main participant in these events of June 23, and then June 26, 27, and 28.

I want to inform you that this morning, before the Senate Armed Services Committee, both General Walters and General Cushman sat with me all during the morning, so we all testified. So I have been in his presence today, and we have been over these matters, and I can say that I think there are only about two points about which there is some question between him and me.

One of these points was some remarks that Mr. Haldeman made at the June 23, meeting, some rather incoherent remarks about the Bay of Pigs, and how further investigation would run into the Bay of Pigs, and I recall quite clearly I said "Well, you know the Bay of Pigs was a long time ago. I don't care anything about the Bay of Pigs, so don't worry about the Bay of Pigs."

That was simply a flushing out of the part of the conversation which doesn't appear in General Walters' affidavit.

Mr. NEDZI. Were the comments made in the general context of a threat?

Ambassador HELMS. Well, this was not—when I said the remark was incoherent, I simply mean that, because I really didn't understand what he was talking about as far as the Bay of Pigs was concerned. I don't know whether he really understood himself. He was making an aversion to it, and I don't know why he was doing it, and I don't know to this day why.

I simply wanted to mention it had come up. I think General Walters now agrees, since I mentioned it, it did come up.

Then there is another point, and this is a very important one I think—

Mr. NEDZI. If I may just interject. Didn't General Walters at one point make reference to the Cubans?

Mr. SLATINSHEK. Yes.

Mr. NEDZI. Maybe the Cubans did it, or something.

Mr. MELVIN PRICE. He said that in reference to the break-in.

Mr. SLATINSHEK. But this was to Dean, in response to Dean's efforts to give him some possible basis for this action.

Ambassador HELMS. I want to try, Mr. Chairman, here and I would appreciate it if you would go right along with me and be a little bit patient with me, because I don't want to mislead anybody. I don't want to overdrive this. I don't want to underdrive it. I want to try and explain it.

You will recall what General Walters testified to as to what he had been asked by Mr. Haldeman to do, which was go and see Acting Director Gray of the FBI, and speak to him about halting the investigation into Mexico because it might run into certain CIA operations. You recall this?

Mr. NEDZI. Yes.

Ambassador HELMS. When we left Mr. Haldeman's office and were on our way out of the White House, I said to General Walters that I thought that was going too far, he shouldn't go that far in speaking to Mr. Gray. He should only go so far as to say that if Mr. Gray in his investigations ran into any CIA operations in Mexico, he should remember about the delimitation agreement between the FBI and the CIA, and advise the CIA that he had done so.

This is an agreement that the Bureau and the Agency have had for years, if you run into each other's sources, operations or assets, you report to the other fellow you have done so.

General Walters at that point in time had been in the Agency only a little while. He knew there was some sort of agreement like that, but I don't think he had as many of the details in his mind as he would have had if he had been there 6 months longer. I am not sure he thoroughly understood me. He was tearing off to go to this appointment anyway, so he didn't have time for me to make a very logical and thorough explanation of this.

I wanted him in his comments with Mr. Gray to stay within legitimate parameters. What I was asking him to say would have kept the conversation entirely within legitimate parameters. He still thinks it was. There seems to be a little bit of debate whether he had gone farther than I wanted him to go or not.

I don't know to this day whether he did or not, but I wanted to make this point to you because I don't think it makes any difference. I have never boggled or halted 1 minute in our cooperation with the FBI in that investigation that had started after the burglary, and I don't think it makes all that much difference, but I just wanted to tell you it came up this morning, so you don't read about it someplace else.

Mr. NEDZI. According to General Walters, that afternoon he came back to the Agency and made a check as to whether in fact there was any justification for resuming this kind of program.

Ambassador HELMS. The reason, Mr. Chairman. I wanted him to phrase it this way, and I say this was legitimate, whatever Mr. Haldeman had in mind I don't know, but what I was telling him to do was legitimate, because in any investigation in a country like Mexico, there is no way of knowing what one might come across the next day, the next week or the next month in the way of CIA assets.

None of them ever came up. I can tell you now at the end, but they might have. I thought it would be a good idea that Mr. Gray, who was a new boy too on his job, should remember that if he ran into some legitimate assets of ours, he was to let us know.

Mr. NEDZI. In substance, General Walters said a similar thing?

Ambassador HELMS. I think there is very little difference between them.

Mr. NEDZI. He did say at the time this matter was suggested by Haldeman, he was uncertain as to whether the Agency had some legiti-

mate concerns or not, and that perhaps there might be. So he was not touted off with talking with Gray.

Ambassador HELMS. I think it might be a distinction without a difference, almost, but I simply wanted to tell you about it, because I believe in these investigations these various committees are conducting, they are all using their own material and their own testimony and so forth, and I am trying to tie these things together so none of us have unpleasant surprises out of them, that is all.

Mr. NEDZI. What was your response to Mr. Haldeman at that time?

Ambassador HELMS. We listened to what he wanted General Walters to do, and I said why did they want—my recollection is that I asked him what was behind this. He didn't reply. He simply said it has been decided this is what is to happen. We want General Walters to do this, and so on.

So it was because of the way this was put and so forth. I spoke to Walters after we left the room, because I thought the charge that had been put on him was carrying him too far afield.

Mr. NEDZI. When you say "it was decided," by whom?

Ambassador HELMS. It was not specified.

Mr. NEDZI. Whom do you assume had made the decision?

Ambassador HELMS. Mr. Chairman, I was sitting talking to the two principal lieutenants of the President, and they were sitting there together, and saying this is what has been decided to do. They declined to come up with any further explanation or descriptive material, and I can only say that an assumption had to be that they knew what they were talking about and this is what they wanted.

Mr. NEDZI. What do you conceive the motivation to be?

Ambassador HELMS. I don't know to this day, really. One of the most uncomfortable things that I am going through is the intimation all the time I have been holding out on people. You know, the extraordinary thing about it is that I don't have this feeling at all. I have been trying to level with every committee.

The Senate Foreign Relations Committee feels there was something inconsistent about what I testified before them and what is coming out now. I don't quite understand what the point is. I will try to find out on Monday.

I don't know what they have in mind. It is just a week or 6 days or something after the Watergate burglary. I don't know what they were trying to do. It didn't seem to have anything to do with the burglary that I knew of.

Mr. NEDZI. Yet there was no hint of any kind as to what the purpose of this admonition to the FBI means?

Ambassador HELMS. They obviously wanted Mr. Gray to pull back on his investigations outside of the limits of the United States, but they didn't say why, and I must honestly—in years of working with the White House, you know, it probably should occur, but it doesn't occur to us to challenge what is wanted by people who are close to the President. You are used to taking orders from them—not orders from them, but requests and demands and so forth almost every day.

Mr. NEDZI. Demands of this sort?

Ambassador HELMS. Not of this sort, no. But it comes in the same generic context, you know. The demands are various. This was an unusual one.

Mr. MELVIN PRICE. At that time it didn't seem of this sort, did it?

Ambassador HELMS. One doesn't go and talk to the President's principal assistants on the assumption they are trying to trick you.

Mr. NEDZI. However, it seems to me in a matter of this sort, on the surface, concerns would arise. Here you have the President telling the Director of Central Intelligence to tell the Director of the FBI a lie.

Ambassador HELMS. I don't know that this was a lie, Mr. Chairman.

Mr. NEDZI. Well, except on the surface it appeared to be a lie. You were unaware of any problem that the Agency might have had with this kind of investigation. I agree there could have been something. You always have that reservation in your mind, being in the kind of profession you are.

However, as Director, it would appear you would know about any sensitive operations that were taking place.

Ambassador HELMS. I knew of none.

Mr. NEDZI. And if you didn't, then the matter would appear to be a lie.

I haven't read this myself, but Mr. Slatinshek suggests General Walters' comments on the meeting that was held between Haldeman and Ehrlichman and yourself:

General WALTERS. Mr. Helms in the course of the meeting said he already told Gray there was no involvement by the CIA.

Ambassador HELMS. I had.

Mr. NEDZI. "Haldeman repeated it had been decided you will tell him that this will compromise or endanger assets of the CIA in Mexico," which indicates to me at that time the normal conclusion would be that you are being asked to lie.

Ambassador HELMS. I had no way of knowing I was being asked to lie. I didn't know what they knew. I didn't know what they were after, and I want to say to you they were not responsive, Mr. Chairman. I didn't get any information from them. They kept coming back to the same point.

I realize in hindsight it makes me look like a boob. I am sorry.

Mr. NEDZI. To conclude. For your benefit, General Walters further said "I don't recall any particular reaction at that time"—referring to Haldeman—"I believe in fairness to Mr. Helms"—so I guess he referred to your reaction.

He said "I don't recall any particular reaction at that time. I believe in fairness to Mr. Helms, neither Mr. Helms nor I knew who all of the Agency assets and sources are. The White House might well presumably have knowledge of these, but it is not immediately available to us. They might have had some information on this, but it did not come to us at the time we went to this meeting," which is substantially what you are saying.

Ambassador HELMS. It has been my experience, Mr. Chairman, a lot of information gets to the White House nobody else knows anything about. It is amazing.

Mr. NEDZI. Involving the Agency?

Ambassador HELMS. It could involve the Agency. But you know, you are sitting there, you have no files, no records, this is coming forward and you had no opportunity to check.

Mr. NEDZI. Well, then you did check?

Ambassador HELMS. Yes.

Mr. NEDZI. And the conclusion was——

Ambassador HELMS. There was nothing, and the particular Mexican lawyer who emerged and who the FBI asked us about, we checked out and found we had never heard of him. I informed Mr. Gray of this.

Mr. NEDZI. When did you inform Mr. Gray?

Ambassador HELMS. I think it was the last part of June, after we had made the check.

Mr. NEDZI. This was prior to Gray's call to General Walters?

Ambassador HELMS. It seems to me, as I recall it, that it was the week following this meeting that we finally ran the checkout and I happened to be talking to Mr. Gray about an appointment that he and I had, we were to meet on a certain afternoon, and I believe it was at the beginning of the next week or middle of the next week to discuss some of these leads the FBI was developing, and he called back, called up that morning to say that he wasn't going to be able to make the meeting, we would have to cancel it.

It is my recollection I took the occasion of talking to him on the telephone to say "Incidentally, I don't have any information about that Mexican lawyer you asked me about," and then I think we confirmed that in writing subsequently.

But I informed him of that. There was Mr. Dahlberg he asked me about, in Minneapolis, on another occasion in that same timeframe. I called him and told him we had no information on Mr. Dahlberg.

Mr. NEDZI. To pinpoint some dates: On the 23d, you had this meeting at the White House with Haldeman and Ehrlichman. Was Mr. Dean there at that time?

Ambassador HELMS. No.

Mr. NEDZI. Subsequent to the meeting, General Walters went to see Mr. Gray?

Ambassador HELMS. Yes.

Mr. NEDZI. When he returned to the Agency, immediately he instigated a review of Agency operations to determine whether there was any substance to the positions that Haldeman wanted the Agency to assume.

On Monday, General Walters had a meeting with Mr. Dean, at which apparently after consulting with you, you decided that there was nothing to this kind of position, and General Walters so advised Mr. Dean.

Now, at that point did you take any action of any kind to notify anybody else?

Ambassador HELMS. No, sir. I had a talk with General Walters at this time, when he came back from the call on Mr. Dean, and he told me what had transpired, that there was some kind of fishing going on about what was to be done about this general situation and so on. He told me that he had declined to have any of Mr. Dean's proposals—or have anything to do with them, and I said "Look, you talk about resigning over this issue or things of this kind. Let me just say this: I want it to be clearly understood between us that you are not to agree to anything that will in any way besmirch this Agency. I don't care whether you are prepared to be a scapegoat or anything else, that is not the point. This Agency is not the Army or Navy or some big insti-

tution like that. It can hurt it badly by having somebody act improperly who was in the line of command, and I don't want you to acquiesce in a single thing that will besmirch this Agency," and he agreed.

We held the line together all through these various feelers that were put out, which he has described to you in his affidavit.

Mr. NEDZI. This was in the course of meetings with John Dean on the 26th, 27th, and 28th?

Ambassador HELMS. On each one of those he reported back to me at some point.

Mr. NEDZI. All right. At what point were you contacted or did you contact Mr. Gray?

Ambassador HELMS. I was having telephone calls from him during that week, and I don't know exactly when they all were.

Mr. NEDZI. But it was during that week?

Ambassador HELMS. Yes.

Mr. NEDZI. The substance of the telephone calls?

Ambassador HELMS. Well, one of them was to set up a meeting so we could get together. Another was to cancel—he called up to cancel the meeting. I took advantage, as I say, of one of those to give him some information about this Mexican lawyer. I believe I called him back a separate time about Mr. Dahlberg, or we may have been trying to set up another meeting.

It is awfully hard to reconstruct these things 2 years later, but I was talking to him with some regularity on the telephone.

Mr. NEDZI. Did he express any reservations about constraints that were placed on them by virtue of General Walters' contact in this?

Ambassador HELMS. He didn't tell me about any constraints at this time. He canceled the meeting. I read in the paper he was told to cancel the meeting by Mr. Ehrlichman, but he didn't tell me that at that time. He just said he couldn't make it.

Mr. NEDZI. Did you ever advise him in the course of those conversations about your search with respect to the Agency being involved in connection with matters, sensitive Mexican matters?

Ambassador HELMS. I never talked to him about it. This was General Walters who talked to him about that. He never asked me.

I assumed he and General Walters were talking about it, so there was no need to talk about it further.

Mr. NEDZI. Were you aware of any contact between General Walters and Mr. GRAY?

Ambassador HELMS. Well, when he went——

Mr. NEDZI. When he went to that meeting at 1 o'clock on Friday?

Ambassador HELMS. I think he saw Mr. Gray later than that in the afternoon. It was after the meeting.

Mr. NEDZI. Two-thirty, rather, after the other meeting?

Ambassador HELMS. Yes. I believe he had meetings later with him, in which he told me about them. The record shows this, I believe, that he saw him on the 5th of July.

Mr. NEDZI. On July 5th he got a call from Mr. Gray.

Ambassador HELMS. Yes.

Mr. NEDZI. What I am trying to determine is whether the Agency made any effort to contact Mr. Gray between the 23d and the 5th of July?

Ambassador HELMS. Yes, sir, it was in between that period I had a meeting set up with him. He was going to come out to the Agency or I was going to go down there, I don't remember which, and we were going to discuss——

Mr. NEDZI. Who suggested the meeting?

Ambassador HELMS. I believe it was he, he had some things he would like to talk to me about. I said "Great, let's get together." I believe that is what happened, but I couldn't swear. I might have suggested the meeting, but I think it was he. Then he canceled it.

Mr. NEDZI. And then on July 5 he called General Walters?

Ambassador HELMS. Yes.

Mr. NEDZI. Were you invited to that meeting, or was it suggested you appear?

Ambassador HELMS. Not that I recall.

Mr. NEDZI. Is there any explanation why the meeting was called off, after a week of contacts, all of a sudden——

Ambassador HELMS. He just called up and said "I can't make the meeting, I am too busy," and so forth. But he did not tell me what I say I have now read in the papers, he said Mr. Ehrlichman told him to call it off—the one with me.

Mr. NEDZI. When you first dealt—getting back to the Ellsberg profile again—dealt with Mr. Young, was it solely on his word that you ordered Mr. Osborn to cooperate?

Ambassador HELMS. My recollection is, sir, that he quoted other people in the White House as being interested in this, that Mr. Ehrlichman wanted it, Dr. Kissinger wanted it. Everybody was very exercised about these leaks, would we please help them out, and so forth.

Mr. MELVIN PRICE. You said earlier Mr. Young said it was the highest White House support, the request had the highest White House support.

Ambassador HELMS. I am not surprised if he said that. It was certainly——

Mr. MELVIN PRICE. This afternoon I think you said that.

Ambassador HELMS. It was certainly the impression he gave me.

Mr. MELVIN PRICE. Who did you take that to mean?

Ambassador HELMS. I took it to mean his boss, Mr. Ehrlichman, and whoever else was working on these problems.

Mr. NEDZI. Did you take his word for that, or did you verify it with someone else?

Ambassador HELMS. I had no reason not to take his word. He was working for Mr. Ehrlichman. I knew this. I have always thought that Young was a decent fellow. I mean I had no reason at that time to question him, that he wasn't accurately reflecting what the real circumstances were.

You know, if I may say so, if we, everytime somebody in the White House asked for something, had to check with two or three other people to find out if the fellow was telling the truth, we would have no standing left at all. We would have been cut to ribbons.

Mr. NEDZI. Well, I appreciate that statement.

On the other hand, when you get involved in the kind of—"unique" is the only way to describe them—operations, as we had here, one wonders whether the burden doesn't shift?

Ambassador HELMS. But, Mr. Chairman, the leak of the Pentagon Papers was also a unique kind of a thing. I mean it was a rather startling development that these volumes were put in the public domain on the say-so of an individual, and had people quite shaken up, and they were very concerned about it.

The atmosphere was one of great concern about these leaks at this time. Were they going to ruin the SALT negotiations? What other things might be leaked? One has to recognize that there was an atmosphere at the time that was uncommon. All of this was uncommon.

Mr. BOB WILSON. Mr. Chairman, has it been determined whether there were any other requests that had come in at any time in the past for profiles of any other individuals?

Ambassador HELMS. No, sir, not that I know of.

Mr. BOB WILSON. So it was a rather unique question?

Ambassador HELMS. Yes, I concede that.

Mr. BOB WILSON. You were reluctant to proceed.

Mr. NEDZI. Did you read these profiles that were prepared before they were sent on?

Ambassador HELMS. I leafed through them to be sure nothing startled me, but I couldn't tell you today what is in them. I couldn't even begin to. And I don't think I read them very carefully. Maybe I should have, but I must say this didn't seem to be all that critically important at the time.

I just wanted to be sure they were proper and appropriate, and there was nothing scandalous or anything involved in them.

Mr. NEDZI. Did Mr. Young ask for any other agency assistance, other than the Ellsberg profile?

Ambassador HELMS. He was in touch with Mr. Osborn about our security regulations. He wanted, I believe, as well to find out how the USEUR security committee operated. I think he asked him at one time, if I am not mistaken—I may be wrong, but I think so—about a list of leaks that had occurred in the ensuing or previous 2 or 3 years we had a record of out there. There were various things of this kind that were requested.

Mr. NEDZI. Did he ask you for any other kind of information?

Ambassador HELMS. Just generally. In other words, will you have the fellows help me out with these things? That was the kind of request he made.

Mr. BOB WILSON. Mr. Chairman, did we ever ask, or has it ever been made available to us, a copy of the so-called Ellsberg profile?

Mr. SLATINSHEK. We hadn't asked for them, Mr. Wilson. We can, of course.

Mr. BOB WILSON. I thought perhaps it might shed some light on what they were trying to get at, of all things. If it is available—

Mr. NEDZI. We will have to make that request of Dr. Schlesinger or Mr. Colby, or whoever is in charge this week.

Ambassador HELMS. Yes; please.

Mr. NEDZI. Was General Cushman aware of the Ellsberg profile?

Ambassador HELMS. He says not. I heard him say this morning he was not. I heard him say this morning at the Senate he was not.

Mr. NEDZI. Was there any reason to keep this from him?

Ambassador HELMS. No, but there was no reason to inform him of it either.

Mr. NEDZI. Why not?

Ambassador HELMS. I handled hundreds of things every week that I didn't inform General Cushman about, not because there was any reason not to inform him. It was simply there were so many going on I never got around to it. That was the way I operated, for better or for worse.

Mr. NEDZI. Well, was that deliberate?

Ambassador HELMS. It was not deliberate in the sense I wanted to keep him out of anything. It was in fact time——

Mr. NEDZI. Was it deliberate to operate that way, rather than adopt a procedure under which a deputy is in fact a deputy who knows everything that goes on in the Agency?

Ambassador HELMS. I am sorry, Mr. Chairman, it simply wasn't my style. If that is a mistake, then I freely and frankly admit it. I had been in the Agency much longer than he had, or his predecessor, Admiral Taylor. I knew a lot more about the things that were going on, and I simply could not take the time to inform him about a lot of these things.

Maybe in retrospect that isn't the right way to run the railroad, but it is the way I ran it.

Mr. NEDZI. Were you aware of Mr. Hunt working with any CIA personnel on any other matters?

Ambassador HELMS. No.

Mr. NEDZI. Do you know whether there are any other ex-Agency employees working for the Mullen Co.?

Ambassador HELMS. Ex-Agency employees?

Mr. NEDZI. Yes.

Ambassador HELMS. I honestly don't know. May I go off the record a minute?

Mr. NEDZI. Certainly.

[Discussion off the record.]

Mr. NEDZI. Do you have any questions, Frank?

Mr. SLATINSHEK. No.

Mr. NEDZI. Or Mr. Price?

Mr. MELVIN PRICE. No.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. No.

Mr. NEDZI. Do you have any questions?

Mr. HOGAN. I had one question, Mr. Helms. You indicated that going back to the General Cushman situation, probably there was some sort of a White House investigation or inquiry going on, where they were looking for tape recorders and so forth, and in retrospect, the other material. Were you ever aware in all of your experience the White House was conducting their own investigation of matters, domestic or foreign?

Ambassador HELMS. I never ran across it before.

Mr. HOGAN. That was the first one?

Ambassador HELMS. As far as I know.

Mr. HOGAN. Yes, sir.

Ambassador HELMS. That isn't to say it was. That is as far as I know.

Mr. HOGAN. I understand.

Thank you, Mr. Chairman.

Mr. MELVIN PRICE. Mr. Helms, on that camera that was treated in a press release as not an ordinary camera, I think it was described in

some information that we had from Mr. Wagner. He referred to it as a clandestine camera, particularly sensitive, and he was concerned because it could possibly be associated with the Agency.

Ambassador HELMS. I was not informed of this at the time. I understood it was a perfectly routine camera.

Mr. BOB WILSON. As a matter of fact it was stated previously, earlier today, you asked if it were specially planned for the Agency or if it were of commercial grade, you were told it was off the shelf.

Ambassador HELMS. That is right, that was my understanding.

Mr. MELVIN PRICE. But since, though, is this description of it more accurate?

Ambassador HELMS. Mr. Price, I don't know. I am sorry, I simply don't know. If the technicians came in here and testified before you and said this, I would have to accept it. I would have to take their word in any event. I don't know about these things.

Mr. NEDZI. The point we are making is, you were not aware of it?

Ambassador HELMS. That is right.

Mr. NEDZI. And that to your knowledge it was a commercial type piece of photographic equipment?

Ambassador HELMS. Yes.

Mr. NEDZI. One of the technicians has submitted an affidavit in which he stated the camera was to be used in a tobacco pouch, apparently to conceal the fact that it is a camera, and training was asked in the use of it in order that pictures may be taken clandestinely.

Ambassador HELMS. I see.

Mr. NEDZI. At the time you were Director, did you or anybody under you, to your knowledge, ask the FBI to refrain from interrogating certain individuals in connection with certain individuals or Agency employees in connection with this whole affair?

Ambassador HELMS. My recollection is that there were two individuals that I believe had come up—their names had come up in some connection or other. I told the FBI that they were employees, and that I would prefer they weren't approached on the matter because I didn't think it was relevant. In other words, we had our own reports from them which we turned over to the FBI. I didn't see any necessity for this.

Mr. NEDZI. Who were they?

Ambassador HELMS. I am not sure I remember any more, but I remember a couple.

I think one of them was this Karl Wagner, who is working for Cushman. We submitted the material and so forth about him. There didn't seem to be any need. You know he was no mysterious fellow. He is Karl Wagner. I believe there was one other fellow in the Agency but I don't remember his name now any more. If it is in the record, maybe you could refresh my memory.

Mr. NEDZI. Why would you ask him to do something like that? Why shouldn't Wagner talk to the FBI if they wanted to talk with him?

Ambassador HELMS. Let me reconstruct what the circumstances were.

Mr. NEDZI. Dr. Schlesinger, Mr. Colby, or General Walters, who testified at one point they had asked the FBI in the field office not to interrogate a witness.

Mr. HOGAN. That was Mr. Colby.

Mr. NEDZI. But they were prepared to have him be responsive, to be responsive to people either directly to Mr. Gray or to the headquarters.

Ambassador HELMS. This is what I am trying to remember, sir, this is why I got so pensive here, because it was not a nefarious reason, but a sensible reason the people from the Alexandria field office didn't have certain information we had already turned over to Mr. Gray. If these fellows were to be talked to, we didn't want them to be put in a position of putting in an entirely different information in a different circuit in the FBI. Some of this goes back into the question of the covers that were in the Mullen office, that we wanted to keep from being spread all through the Government, that we had people under cover there. There were some perfectly sensible reasons, you know, not malign reasons. They were just the modalities of how this best can be done.

Mr. NEDZI. That corroborates what we were told the other day.

Ambassador HELMS. I think it would be useful, if I may say so, for me to state here for the benefit of the committee that everybody was instructed to help with the FBI investigation in the Agency, and every lead was checked out. You know, here is a name, then all the records were gone through, and all the things were pursued, and so forth.

Mr. NEDZI. Were there any memos issued along this line?

Ambassador HELMS. I don't recall. My more likely way of doing this is, I would say, let's get with it, in a staff meeting or something.

Mr. NEDZI. Mr. Helms, did the thought occur to you that some of these matters would have been of considerable interest to congressional oversight committees?

Ambassador HELMS. No, sir. I don't recall having wrestled with whether I should come and speak to any congressional committees. I was doing my level best to handle the Agency's affairs, to keep it out of involvement in this burglary, which there seemed to be a lot of effort on the part of newspapers and others to put us into it. I was attempting to fend this off to protect the Agency's name. I had been reasonably successful and didn't see anything about these things I needed to report on.

May I go off the record a second?

Mr. NEDZI. Yes.

[Discussion off the record.]

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. After the break-in was discovered, and the people involved apparently had CIA background or connections, and so forth, and the big public furor was whether the CIA were somehow involved with it, was there any other request from the White House beside the one referred to yesterday by General Walters, where you and he met with Haldeman?

Ambassador HELMS. That was the only meeting we had.

Mr. BOB WILSON. That was the only meeting. No other phone calls or anything else?

Ambassador HELMS. No, sir, not to me.

Mr. BOB WILSON. Or any other questions about your activities?

Ambassador HELMS. Not to me.

Mr. BOB WILSON. Thank you.

Mr. SLATINSHEK. One general question, Mr. Helms:

Looking back in hindsight now in all of this, and the problem, essentially, one of the problems, at least, essentially that arose because of

the leaks of classified material, you pointed out that the Director of CIA has the responsibility for protecting classified information against unauthorized disclosure, yet he has no weapon or mechanism by which this can be accomplished.

There obviously is a hole here in this whole picture. Other testimony here indicated that you had never before seen the White House involved in a security investigation of its own. Ordinarily the Department of Defense or the FBI or just itself would be involved.

Do you have any suggestion that we might ponder over as to what the Congress might do in this area. One, of course, to give you perhaps a little clarification in the statutes that you are not to be involved in internal security matters, or, perhaps, on the other hand, give you authority to get involved in internal security matters which involve defense matters or national intelligence matters? I am not sure what your views are, and since you are no longer with the Agency, you might be able to give us the benefit of your ideas on that.

Ambassador HELMS. Sir, as a citizen, I would like very much to suggest the appropriate congressional committees examine that charge on the Director. I don't know in which direction it ought go, and in the wisdom of the Congress I think you might come up with something that is far better than the present one. I don't like the present one, quite frankly. I think it is an unfair charge.

Mr. NEDZI. The charge is in the form of a proviso, provided that—which could be construed, it seems to me, that if the Director becomes involved in internal security matters for the purposes of protecting sources and methods, he then is not deemed to be in violation of this particular provision?

Ambassador HELMS. I don't think that is the way it is worded, is it?

Mr. NEDZI. It doesn't have that responsibility outright, because obviously the FBI is involved here.

Ambassador HELMS. I don't like the way it is worded. I am sorry. You asked my opinion, and my opinion is it is an unfair charge on the Director.

Mr. SLATINSHEK. Well, do you not also have the responsibility to respond to such other direction as the National Security Council may give you?

Ambassador HELMS. Yes; there is a provision in there.

Mr. SLATINSHEK. Which could conceivably involve actions not unlike some of those that you had taken rather reluctantly?

Ambassador HELMS. Mr. Slatinshek, if the White House asks me to do something, I believe it is my proper duty to go ahead and do it. I have a very keen sense, I thought, of what my responsibilities were and where to draw certain lines and when to appeal decisions that were improper.

Mr. NEDZI. Have you ever had those submitted to you?

Ambassador HELMS. I have been asked to do things at times where I had to go back and say I didn't think it was the thing to do, I couldn't do them, or didn't have the funds to do them, something of this kind, yes.

But it is a pretty general charge in this language. I was simply suggesting maybe the language should be examined in fairness to the

future of the Agency, because I don't think that anybody, when they wrote that law, ever conceived that the National Security Council would ask anything improper. That is not a normal assumption.

Mr. MELVIN PRICE. Mr. Young, was he the secretary of the National Security Council?

Ambassador HELMS. No, he was not the secretary. He was simply a special assistant to it, or something.

Mr. MELVIN PRICE. To the National Security Council?

Ambassador HELMS. Yes.

Mr. NEDZI. The point Mr. Helms was involved was the Ehrlichman staff, the *Ehrlichman* decision, to go along with it.

Mr. MELVIN PRICE. When you were in contact with him he was not with the National Security Council?

Ambassador HELMS. I thought he had some title there. Didn't I address it to the Special Assistant of the National Security Council or something? I believe that is the title he borrowed at the time.

Mr. BOB WILSON. Did he wear the cloak of the National Security Council in any way, to give the impression?

Ambassador HELMS. By implication he was representing the White House. I don't think he invoked the National Security Council as such.

Mr. MELVIN PRICE. Your letter to him of November 9 was addressed to him as Mr. David Young, Special Assistant for the National Security Council.

Ambassador HELMS. That may have been the title he had at the time. I assume it was. I would have gotten that from some place.

Gentlemen, don't you honestly believe, all of you, as I do that you've got to be honorable men to run anything like this, particularly an intelligence organization? You have to have some fiduciary relationships, honor, and dignity to go along with it, otherwise you couldn't possibly legislate the kind of laws to handle the matter.

Mr. NEDZI. It doesn't seem as if a commission is going to solve many of these problems.

Mr. BOB WILSON. As a personal opinion, I think your Agency was badly abused and you as an individual were badly abused.

Ambassador HELMS. I feel that way now, sir, I feel it deeply.

Mr. NEDZI. We all feel it.

Are there any further questions?

The subcommittee will stand adjourned until further call of the Chair.

Ambassador HELMS. Thank you very much, Mr. Chairman and gentlemen.

Mr. BOB WILSON. Thank you.

[Whereupon, at 4:32 p.m., the subcommittee was adjourned until further call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Monday, May 21, 1973.

The subcommittee met, pursuant to adjournment, at 2:30 p.m., in room 2216, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order.

We are meeting to continue our inquiry into the CIA involvement in the Watergate matter.

I would like to begin by reading a letter directed to me by Chairman Hébert today:

Dear Mr. Chairman: For the purpose of fully discharging its responsibilities, the Subcommittee on Intelligence is vested with the authority granted and conferred in House Resolution 185, 93d Congress.

The Subcommittee may, therefore, require by subpoena or otherwise, the attendance and testimony of such witnesses and production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. Subpoenas may be issued by you, as Chairman of the Subcommittee, with the approval of a majority of the members of the Subcommittee. Witnesses testifying before the Subcommittee may be sworn at the discretion of the Chairman and with the concurrence of the majority of the Subcommittee members present.

Sincerely,

F. EDWARD HÉBERT,
Chairman.

At this time I would like to put the question to the subcommittee with respect to the swearing in of General Walters.

All those in favor signify by saying "Aye."

Those opposed, "No".

[Unanimously "Aye".]

Mr. NEDZI. General Walters, do you swear that the testimony you are about to give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

General WALTERS. I do.

Mr. NEDZI. General Walters, in light of the memoranda that have been given to the various committees of Congress, is there any statement that you would like to make at this time?

[The memoranda follow:]

COVERING NOTE

18 May 1973.

The attached memoranda were never intended to be a full or verbatim account of the meetings they covered. They were notes to refresh my memory if I should need it. Originally the only copy was held in my personal files.

Apparent inconsistency between my testimony that the President's name was not used by Haldeman in our 23 June conversation and the note that he had said that "... it was the President's wish. . . ."—I wrote this note five days after the talk. When I showed it to Mr. Helms, he pointed out that Haldeman had not actually used the expression "it is the President's wish". Obviously the thought was implicit in my mind. I did not, however, correct the memo since it was for my own use only. The fact that I agreed with Helms is shown by

my saying to Gray on 5 July that "it was implicit" and in several other talks both with Gray and Dean showing clearly I did not believe that the President knew.

In my talk with Dean on 28 June I said, "Those who were not touched by the matter would be so" if I were to do what Dean wanted.

The fifth paragraph of my memo on my talk with him on 28 June covers this also.

My whole talk with Gray on 6 July also makes this view clear. Paragraph five of my memo of the July 28 conversation with Gray also reflects this view.

With regard to the reference to the Cubans in my notes on my talk with Dean on 28 June, he had expressed the view that there were three hypotheses on the bugging: (1) The Committee to reelect the President; (2) the CIA; (3) Some other group. He never admitted any participation by the first group. I told Dean CIA was not involved. He was casting about desperately for someone and pressed me for ideas. My remarks were intended only as a hypothetical assumption.

VERNON A. WALTERS,
Lieutenant General, USA.

MEMORANDUM FOR RECORD W

28 June 1972.

On June 23 at 1300 on request I called with Director Helms on John Ehrlichman and Robert Haldeman in Ehrlichman's office at the White House.

Haldeman said that the "bugging" affair at the Democratic National Committee Hqs at the Watergate Apartments had made a lot of noise and the Democrats were trying to maximize it. The FBI had been called in and was investigating the matter. The investigation was leading to a lot of important people and this could get worse. He asked what the connection with the Agency was and the Director repeated that there was none. Haldeman said that the whole affair was getting embarrassing and it was the President's wish that Walters call on Acting FBI Director Patrick Gray and suggest to him that since the five suspects had been arrested that this should be sufficient and that it was not advantageous to have the enquiry pushed, especially in Mexico, etc.

Director Helms said that he had talked to Gray on the previous day and had made plain to him that the Agency was not behind this matter, that it was not connected with it and none of the suspects was working for, nor had worked for the Agency in the last two years. He had told Gray that none of his investigations was touching any covert projects of the Agency, current or ongoing.

Haldeman then stated that I could tell Gray that I had talked to the White House and suggest that the investigation not be pushed further. Gray would be receptive as he was looking for guidance in the matter.

The Director repeated that the Agency was unconnected with the matter. I then agreed to talk to Gray as directed. Ehrlichman implied I could do this soon and I said I would try to do it today.

Upon leaving the White House I discussed the matter briefly with the Director. On returning to the office I called Gray, indicated that this was a matter of some urgency, and he agreed to see me at 1430 that day.

VERNON A. WALTERS,
Lieutenant General, USA.

MEMORANDUM FOR RECORD W

28 June 1972.

At 1430 on 23 June I called on the Acting Director of the FBI, L. Patrick Gray, at his office in the FBI Building and saw him alone.

I said that I had come to see him after talking to the "White House". I cited no names and he asked for none. I added that I was aware of the Director's conversation with him the previous day and while the further investigation of the Watergate Affair had not touched any current or ongoing covert projects of the Agency, its continuation might lead to some projects. I recalled that the FBI and the Agency had an agreement in this respect and that the Bureau had always scrupulously respected this. Gray said he was aware of this and understood what I was conveying to him. His problem was how to low key this matter now that it was launched. He said that a lot of money was apparently involved and there was a matter of a check on a Mexican bank for 80 thousand dollars. He asked

if the name Dahlberg meant anything to me and I said it did not but that that was not really significant as I had only been with the Agency for a few months.

Gray then said that this was a most awkward matter to come up during an election year and he would see what he could do. I repeated that if the investigations were pushed "south of the border" it could trespass upon some of our covert projects and, in view of that fact that the five men involved were under arrest. It would be best to taper the matter off there. He replied that he understood and would have to study the matter to see how it could best be done. He would have to talk to John Dean about it.

Gray said he looked forward to cooperating closely with the Agency. After some pleasantries about J. Edgar Hoover and our past military careers, I left saying that my job had been an awkward one but he had been helpful and I was grateful.

VERNON A. WALTERS,
Lieutenant General, USA.

MEMORANDUM FOR RECORD W

28 June 1972.

On 26 June at about 10:00 a.m. I received a phone call from Mr. John Dean at the White House. He said he wished to see me about the matter that John Ehrlichman and Bob Haldeman had discussed with me on the 23rd of June. I could check this out with them if I wished. I agreed to call on him in his office in Room 106 at the Executive Office Building at 1145 that morning. Immediately after hanging up, I called Ehrlichman to find out if this was alright and after some difficulty I reached him and he said I could talk freely to Dean.

At 1145 I called at Dean's office and saw him alone. He said that the investigation of the Watergate "bugging" case was extremely awkward, there were lots of leads to important people and that the FBI which was investigating the matter was working on three theories:

1. It was organized by the Republican National Committee.
2. It was organized by the CIA.
3. It was organized by some other party.

I said that I had discussed this with Director Helms and I was quite sure that the Agency was not in any way involved and I knew that the Director wished to distance himself and the Agency from the matter. Dean then asked whether I was sure that the Agency was not involved.

[Deleted]. I said that I was sure that none of the suspects had been on the Agency payroll for the last two years.

Dean then said that some of the accused were getting scared and "wobbling." I said that even so they could not implicate the Agency. Dean then asked whether there was not some way that the Agency could pay bail for them (they had been unable to raise bail). He added that it was not just bail, that if these men went to prison, could we (CIA) find some way to pay their salaries while they were in jail out of covert action funds.

I said that I must be quite clear. I was the Deputy Director and as such had only authority specifically delegated to me by the Director and was not in the chain of command but that the great strength of the Agency and its value to the President of the nation lay in the fact that it was apolitical and had never gotten itself involved in political disputes. Despite the fact that I had only been with the Agency a short time, I knew that the Director felt strongly about this.

I then said that big as the troubles might be with the Watergate Affair, if the Agency were to provide bail and pay salaries, this would become known sooner or later in the current "leaking" atmosphere of Washington and at that point the scandal would be ten times greater as such action could only be done upon direction at the "highest level" and that those who were not touched by the matter now would certainly be so.

Dean seemed at first taken aback and then very much impressed by this argument and said that it was certainly a very great risk that would have to be weighed. I repeated that the present affair would be small potatoes compared to what would happen if we did what he wanted and it leaked. He nodded gravely.

I said that, in addition, the Agency would be completely discredited with the public and the Congress and would lose all value to the President and the Administration. Again he nodded gravely.

He then asked if I could think of any way we (CIA) could help. I said I could not think of any but I would discuss the matter with the Director and would be in touch with him. However, I felt that I was fully cognizant of the Director's feelings in this matter. He thanked me and I left.

VERNON A. WALTERS,
Lieutenant General, USA.

MEMORANDUM FOR RECORD W

June 29, 1972.

At 1145 on 27 June 1972, I saw John Dean at his office in the Executive Office Building.

I told him that I had spoken to Director Helms and found that what I had said to Dean the previous day did indeed reflect Helms' views accurately. That he felt any involvement of the Agency would be most counter productive and furthermore, we had a legislative constraint about the expenditure of our funds within the United States. We had to clear them with the Chairmen of the CIA Oversight Committees in both House and Senate. This visibly lessened his enthusiasm.

I then repeated my arguments that this caper while presently seeming very large would be overtaken by other spicier developments. Unfortunate though its consequences might be currently, Agency involvement by direction at the highest level would undoubtedly become known sooner or later and would then reach to people who were still uninvolved. He nodded. I said that my mind boggled that such risks as those involved in this caper could have been taken for such an unremunerative target. Involving the Agency would transform what was now a medium-sized conventional explosive into a multi-megaton explosion and simply was not worth the risk to all concerned.

Dean thanked me looking glum and said he agreed with my judgment in all of these matters.

VERNON A. WALTERS,
Lieutenant General, USA.

MEMORANDUM FOR RECORD W

June 29, 1972.

On 28 June at 11:300 John Dean asked me to see him at his office in the Executive Office Building. I saw him alone.

He said that the Director's meeting with Patrick Gray, FBI Director, was cancelled and that John Ehrlichman had suggested that Gray deal with me instead.

The problem was how to stop the FBI investigation beyond the five suspects. Leads led to two other people—Ken Dahlberg and a Mexican named Guena. Dean said that the \$89,000 was unrelated to the bugging case and Dahlberg was refusing to answer questions. Dean then asked hopefully whether I could do anything or had any suggestions.

I repeated that as Deputy Director, I had no independent authority. I was not in the channel of command and had no authority other than that given me by the Director. The idea that I could act independently was a delusion and had no basis in fact.

Dean then asked what might be done and I said that I realized he had a tough problem, but if there were Agency involvement, it could be only at Presidential directive and the political risks that were concomitant appeared to me to be unacceptable. At present there was a high explosive bomb but intervention such as he had suggested would transform it into a megaton hydrogen bomb. The present caper was awkward and unpleasant. Directed intervention by the Agency could be electorally mortal if it became known and the chances of keeping it secret until the election were almost nil. I noted that scandals had a short life in Washington and other newer spicier ones soon replaced them. I urged him not to become unduly agitated by this one.

He then asked if I had any ideas and I said that this affair already had a strong Cuban flavor and everyone knew the Cubans were conspiratorial and anxious to

know what the policies of both parties would be towards Castro. They, therefore, had a plausible motive for attempting this amateurish job which any skilled technician would deplore. This might be costly but it would be plausible.

Dean said he agreed that this was the best tack to take but it might cost half a million dollars. He also agreed (for the second time) that the risks of agency involvement were unacceptable. After a moment's thought he said that he felt that Gray's cancellation of his appointment with Director Helms might well be reversed in the next few hours.

Dean thanked me and I left.

VERNON A. WALTERS,
Lieutenant General, USA.

MEMORANDUM FOR RECORD

5 July 1972.

On July 5, 1972, at 5:50 p.m. I received a phone call from the Acting Director of the FBI, L. Patrick Gray. He said that the pressures on him to continue the investigation were great and unless he had a document from me to the effect that their (FBI) investigation was endangering National Security, he would have to go ahead with the investigation of Dahlberg and Daguerre. He had talked to John Dean. I said I could not give him an immediate answer but would get one to him by 1000 on 6 July. He said that that would be agreeable.

VERNON A. WALTERS,
Lieutenant General, USA.

MEMORANDUM FOR RECORD

6 July 1972.

At 1005 on 6 July I saw Acting FBI Director L. Patrick Gray at his office. We were alone during our conversation. I handed him the Memorandum which is attached and said that it covered the entire relationship between the Watergate suspects and the Agency. In all honestly I could not tell him to cease future investigations on the grounds that it would compromise the security interests of the U.S. Even less so could I write him a letter to this effect. He said that he fully understood this. He himself had told Ehrlichman and Haldeman that he could not possibly suppress the investigation of this matter. Even within the FBI there were leaks. He had called in the components of his Field Office in Washington and "chewed them out" on this case because information had leaked into the press concerning the Watergate Case which only they had.

I said that the only basis on which he and I could deal was absolute frankness and I wished to recount my involvement in this case. I said that I had been called to the White House with Director Helms and had seen two senior staff assistants. (I specifically did not name Haldeman and Ehrlichman.) I said that we had been told that if this case were investigated further, it would lead to some awkward places, and I had been directed (the implication being that the President had directed this although it was not specifically stated) to go to Acting Director Gray and tell him that if this investigation were pursued further, it could uncover some ongoing covert operations of the Agency. I had done this. Subsequently, I had seen Mr. Dean, the White House Counsel, and told him that whatever the current unpleasant implications of the Watergate Case were, that to implicate the Agency would not serve the President but would enormously increase the risk to the President. I had a long association with the President and was as desirous as anyone of protecting him. I did not believe that a letter from the Agency asking the FBI to lay off this investigation on the spurious grounds that it would uncover covert operations would serve the President. Such a letter in the current atmosphere of Washington would become known prior to election day and what was now a minor wound could become a mortal wound. I said quite frankly that I would write such a letter only on direction from the President and only after explaining to him how dangerous I thought such an action would be to him and that, if I was really pushed on this matter, I would be prepared to resign.

Gray thanked me for my frankness and said that this opened the way for fruitful cooperation between us. He would be frank with me too. He could not suppress this investigation within the FBI. He had told Kleindienst this. He had told Ehrlichman and Haldeman that he would prefer to resign, but his resigna-

tion would raise many questions that would be detrimental to the President's interests. He did not see why he or I should jeopardize the integrity of our organizations to protect some middle-level White House figure who had acted imprudently. He was prepared to let this go to Ehrlichman, to Haldeman, or to Mitchell for that matter. He felt it important that the President should be protected from his would-be protectors. He had explained this to Dean as well as to Haldeman and Ehrlichman. He said he was anxious not to talk to Mitchell because he was afraid that at his confirmation hearings he would be asked whether he had talked to Mitchell about the Watergate Case and he wished to be in a position to reply negatively. He said he would like to talk to the President about it but he feared that a request from him to see the President would be misinterpreted by the media. I said that if I were directed to write a letter to him saying that future investigation of this case would jeopardize the security of the U.S. and covert operations of the Agency, I would ask to see the President and explain to him the disservice I thought this would do to his interests. The potential danger to the President of such a course far outweighed any protective aspects it might have for other figures in the White House and I was quite prepared to resign myself on this issue. Gray said he understood this fully and hoped I would stick to my guns. I assured him I would.

Gray then said that though this was an awkward question, our mutual frankness had created a basis for a new and happy relationship between our two Agencies. I said the Memorandum I had given him described in detail the exact measure of Agency involvement or non-involvement in this case, including information on Dahlberg and Daguerra.

He thanked me again for my frankness and confidence and repeated that he did not believe that he could sit on this matter and that the facts would come out eventually. He walked me to the door.

VERNON A. WALTERS,
Lieutenant General, USA.

MEMORANDUM FOR RECORD

July 13, 1972.

On 12 July at 1415 I called on Acting FBI Director L. Patrick Gray at his office and saw him alone.

I told him that shortly after I had seen him the last time and given him the memorandum concerning former CIA association of the suspects in the Watergate Case, I had since discovered one additional item concerning Howard Hunt. I gave him the memorandum concerning the assistance given to Hunt which terminated in August 1971 when his demands escalated to an inappropriate level. We had assisted him following a request from the White House and it was our understanding that it was for the purpose of tracking down security leaks in the Government.

He thanked me and said that this case could not be snuffed out and it would lead quite high politically. Dahlberg was in the clear. He had gotten the check from Maurice Stans and had deposited it in the Mexican bank. It was undoubtedly political money. Last Friday, the President had called him to congratulate him on the FBI action which had frustrated the airplane hijacking in San Francisco. Towards the end of the conversation the President asked him if he had talked to me about the case. Gray replied that he had. The President then asked him what his recommendation was in this case. Gray had replied that the case could not be covered up and it would lead quite high and he felt that the President should get rid of the people that were involved. Any attempt to involve the FBI or the CIA in this case could only prove a mortal wound (He used my words.) and would achieve nothing. The President then said, "Then, I should get rid of whoever is involved no matter how high?" Gray replied that that was his recommendation. The President then asked what I thought and Gray said that my views were the same as his. The President took it well and thanked Gray. Later that day Gray had talked to Dean and repeated the conversation to him. Dean had said, "Okay". Gray had heard no more on the subject. He asked whether the President had spoken to me and I said he had on another matter but had not brought up this matter with me.

Gray then said that the U.S. Attorney had subpoenaed the financial records of the Committee to Re-Elect the President. It had been suggested to him that he stop this. He had replied that he could not. Whoever wanted this done should talk to the Attorney General to see if there was any legal way to do this. He

could not. He said that he had told the President in 1968 that he should beware of his subordinates who would try to wear his Commander-in-Chief's stripes. I agreed saying that in my view the President should be protected from his self-appointed protectors who would harm him while trying to cover their own mistakes.

Gray said that our views coincided on this matter. He would resign on this issue if necessary and I said that in maintaining the integrity of our agencies we were rendering the President the best possible service. I, too, was quite prepared to resign on this issue.

He thanked me for my frankness and said that we had established a warm personal and frank relationship at the outset of our tenure in our respective jobs.

VERNON A. WALTERS,
Lieutenant General, USA.

MEMORANDUM FOR RECORD

28 July 1972.

1. On Friday, 28 July 1972, at 1100 I called on the Acting Director of the FBI, L. Patrick Gray, in his office at the FBI Building. He saw me alone. I said I had come to clarify the last memorandum I had given him in reply to enquiries from Mr. Parham re "Cleo".

2. I said that "Cleo" was [deleted], electronics engineer who was in contact with Mr. Hunt during August of 1971. Mr. [deleted] supplied a Uher recorder pursuant to Mr. Hunt's request and assisted him to get it in shape to use for overt, not clandestine, recording of meetings with agents. There was no attempt to make the recorder useful for clandestine activities. Mr. [deleted] had two additional meetings, generated by a phone call to the above number (a sterile telephone in one of our offices), to straighten out some difficulty that had arisen with respect to the microphones. We never recovered the recorder.

3. Aside from the above contact with respect to the recorder, there were contacts with Mr. Hunt with respect to false documents and disguise for himself and an associate. He was also loaned a clandestine camera, which was returned. We developed one roll of film for Mr. Hunt, of which we have copies showing some unidentifiable place, possible Rand Corporation. We had had no contact whatsoever with Mr. Hunt subsequent to 31 August 1971.

4. He thanked me for this information and I added that when Hunt's requests had escalated, we had terminated our assistance to him and had no further contact with him subsequent to 31 August 1971. He was grateful for this information.

5. Gray asked me if the President had called me on this matter and I replied that he had not. Gray then said that a lot of pressure had been brought on him in this matter but he had not yielded. I replied that to destroy the integrity of our two Agencies would be the worst disservice we could do the President and I would not do it. He said he would not either. Gray then said that this was largely a money matter. Some heavy Texas money had given Barker the checks to convert into cash over zealousness business as to money and judgment was * * *.

6. I told him that we intended to terminate the 965-9598 number and he nodded. Then he said, "This is a hell of a thing to happen to us at the outset of our tenure with our respective offices," I agreed heartily.

7. He thanked me for coming to see him and for maintaining such a frank and forthright relationship with him. I felt him a short unsigned memo embodying what I had told him.

VERNON A. WALTERS,
Lieutenant General, USA.

MEMORANDUM FOR THE RECORD

February 9, 1973.

Subject: Telephone Call from John Dean.

This evening at 6:10 I received a telephone call from John Dean at the White House. Dean indicated that he wanted to discuss two topics.

First, he averted to a package of material that had been sent to the Department of Justice in connection with the Watergate investigation. He suggested that Justice be requested to return this package to the Agency. The only item that would be left at Justice would be a card in the files indicating that a pack-

age had been returned to the Agency, since the material in the package was no longer needed for purposes of the investigation. He indicated that the agency had originally provided these materials to the Department of Justice at the request of The Attorney General and Mr. Howard Peterson.

The second subject that he raised was the pending investigation by the Senate of the ITT affair in relation to the Chilean problem. He felt that this investigation could be rather explosive. He also indicated that there might be some sensitive cables at the Agency that might be requested by the Senate investigators. I indicated to him that while I had not seen any cables, I had been briefed on the subject and that the role of the government appeared to be clean. He expressed his delight at hearing this assessment. I indicated that I would look into the cables further.

In this connection he mentioned that there is a hot story being passed about in the press, primarily instigated by Seymour Hersh of the New York Times. The story suggests that Sturgis, who sometimes goes by the code name Federini, was the individual responsible for the burglarizing of the Chilean Embassy in Washington. He also indicated that he requested Senator Fulbright to request the Justice Department to produce Sturgis for the Senate hearings.

I indicated that I would look further into the matter. He closed with some jovial remarks about being the bearer of bad tidings, and I inquired what the good news might be. Further references were made to pending appointments at the AEC.

Shortly thereafter I discussed these matters with Bill Colby, who indicated that Sturgis has not been on the payroll for a number of years and that whatever the allegations about the Chilean Embassy, the Agency has no connection at all. We also agreed that he would discuss the question of the package relating to the Watergate investigation with General Walters and a decision would be made with regard to the appropriate action.

JRS.

cc: General Walters.

MEMORANDUM OF CONVERSATION ON FEBRUARY 21, 1973

May 11, 1973.

At the request of the Director, Dr. Schlesinger, I called on Mr. John Dean at his office at the White House at 1430. I explained to him that, in connection with his request that the Agency ask the Department of Justice to return a package of material that had been sent to them in connection with the Watergate investigation, it was quite impossible for us to request the return of this, as this would simply mean that a note would be left in the Department of Justice files that the material had been sent back to the Agency, and we had been asked not to destroy any material in any way related to this case. I again told him that there was no Agency involvement in this case and that any attempt to involve the Agency in it could only be harmful to the United States. He seemed disappointed. I then left.

VERNON A. WALTERS,
Lieutenant General, U.S.A., Deputy Director.

CW R. Helms
November 18, 1972
11:00 A to 11:21 A

1. One of my lawyers met with AUSA Silbert last week and asked a few questions.
2. I will go to AG first but I thought I should call on you first.
3. Documented answers to questions of AUSA.

STATEMENT OF LT. GEN. VERNON A. WALTERS, DEPUTY DIRECTOR
OF CENTRAL INTELLIGENCE—Continued

General WALTERS. Yes, Mr. Chairman, if I could I would like to sort of establish what each of these documents, including the affidavit, were, and how they were written.

Mr. NEDZI. You may proceed as you would like to proceed.

General WALTERS. As you know, on the covering note which I sent along with the memorandum, I stated that these notes were intended for my personal use only to refresh my memory. They were not in-house memoranda, as you read in the press. They were not circulated to anybody. To the best of my knowledge, I showed them only to Mr. Helms at the time they were written.

As I say, they were never intended to provide a full, total record of what happened.

When I returned from the Far East, I discussed this.

Mr. NEDZI. Tell us when that was.

General WALTERS. I believe, Mr. Chairman, it was—I returned on the evening of the 10th of May, sir.

On the 11th of May I discussed this with Dr. Schlesinger, and it was decided I would take copies of these memos to, as I recall it, the White House, the Assistant Attorney General, and Mr. Kleindienst.

I went down to Mr. Buzhardt and showed them to him and he asked me to leave them with him while he could look at them.

Mr. NEDZI. Was this on May 11?

General WALTERS. This was on May 11th, yes, sir.

When I got back to the office, at CIA, I found that Dr. Schlesinger had asked anybody who had any knowledge of these matters to write out an affidavit, which I did. I did not have the memoranda or any copy in my possession at the time I wrote out the affidavit.

The affidavit is more of a complete and sequential history than the notes which I jotted down, some of them written as much as 5 days after the fact.

I think that about covers it, Mr. Chairman.

Mr. NEDZI. The affidavit was written after the fact?

General WALTERS. I did not have the memoranda in my possession when I wrote the affidavit. I did not consult them to write the affidavit.

Mr. NEDZI. You say some of them were 5 days after the fact, some were 10 months after the fact, is that correct?

General WALTERS. Yes, sir. For instance, on the June 23d call with Director Helms on Ehrlichman and Haldeman was written on the 28th.

And on the 28th, also. I believe were written the record of the two talks on the 26th and 27th with Dean.

Mr. NEDZI. General Walters, when did you leave for the Far East?

General WALTERS. I left for the Far East, Mr. Chairman, on April 26.

Mr. NEDZI. Did you have any discussions with anybody about this matter between February 21, when you mentioned that you had gone to see Mr. Dean to report that the CIA was not going to request the FBI for certain files—

General WALTERS. Right, sir. No, I don't believe I did, Mr. Chairman.

It is hard in retrospect to reproduce this, but this whole thing, as I far as I was concerned, occurred in a 3-day period. It was a little longer actually. The first meeting was on the 23d, which was a Friday. Then I saw Dean on Monday, Tuesday, Wednesday. Following that, he left me alone. I had no further pressure on me.

Mr. NEDZI. In your testimony last Wednesday you made reference to a July 14th date.

General WALTERS. Yes, I believe that is right, sir. I did go back to see him and he just asked me again. It was such a short conversation I did not make a record of it. That is the one with Dean?

Mr. NEDZI. Yes.

General WALTERS. Yes. He said "Have you discovered anything new, can you think of anything new," and I said "No, I cannot."

Mr. NEDZI. And you had no conversations with respect to CIA involvement in the Watergate matter with anyone between February 21st when you saw Mr. Dean, and your departure for the Far East on April 26th?

General WALTERS. Not specific conversations, Mr. Chairman. I couldn't swear we didn't discuss the Watergate case with people from reading the newspapers, and so forth. But specific discussions concerning anything that involved me, no, sir.

Mr. NEDZI. You returned from the Far East on the 10th of May?

General WALTERS. That is right, sir.

Mr. NEDZI. When did you read the memoranda?

General WALTERS. On the morning, sir.

Mr. NEDZI. Of the 10th of May?

General WALTERS. No, on the 11th, sir.

Mr. NEDZI. The 11th.

General WALTERS. I believe I came back so late I did not go into the office.

Mr. NEDZI. Did you read them carefully?

General WALTERS. Yes, sir, I read them pretty carefully.

Mr. NEDZI. On the 12th of May you prepared the affidavit?

General WALTERS. Right, sir.

Mr. NEDZI. Based on the memoranda?

General WALTERS. Based on my recollection, rather than the memoranda, sir. I no longer had the memoranda in my possession at the time I wrote the affidavit.

Mr. NEDZI. Your recollection of the memoranda?

General WALTERS. My recollection of the facts, sir.

Mr. NEDZI. As refreshed by the memoranda?

General WALTERS. As refreshed by the memoranda, yes, sir.

Mr. NEDZI. When did you show this memorandum, to which you refer on your covering note, to Mr. Helms?

General WALTERS. I would guess about the day I wrote it, sir, which would be roughly the 28th.

Mr. NEDZI. Of June 1972?

General WALTERS. Yes, sir.

Mr. NEDZI. At that time he pointed out to you that the expression "It is the President's wish," was not used?

General WALTERS. I don't think he actually said "It is the President's wish," although that is implicit this is what he was saying. I didn't bother to correct it because the memorandum was not destined for circulation to anybody. However, as I explained in the covering memorandum, a number of the references I made in other conversations showed I did not believe that was really the case. And I believe I cited where it was in the various other conversations.

Mr. NEDZI. When you make memorandum for yourself, do you normally entitle it "Memorandum for Record," and sign it, or at least have

typed there "Vernon A. Walters, Lieutenant General, USA," and initial it?

General WALTERS. I believe so, sir, I believe I do. These are the only ones of this type I have ever made in my life.

Normally they are documents of whatever organization I happen to be working for.

Mr. NEDZI. Why would you say "Memorandum for Record," if you didn't intend them to be a part of the record? This is initialed by you.

General WALTERS. Yes. They never went to anybody, Mr. Chairman, at the time. They were just to refresh my own memory.

Mr. NEDZI. Were these typed by you?

General WALTERS. No, sir, they were typed by my secretary, who may well have put in the words, as far as I know. I don't believe I dictated the words "Memorandum for the Record".

Mr. NEDZI. Do you have a copy of the memorandum?

General WALTERS. Yes, sir, I do.

Mr. NEDZI. Is that your initial next to the word "Record" where it says "Memorandum for Record"?

General WALTERS. On my copy I do not see one, sir. I must have photostated from one that was not.

Do you have one, Jack—yes; that is my initial.

Mr. NEDZI. Why would you have to initial a memorandum if it wasn't meant for the record, and which says it is "Memorandum for the Record"?

General WALTERS. Sir, I perhaps misused the word "Record," I certainly didn't intend to give it to anybody.

Mr. NEDZI. Yet it is in your file.

General WALTERS. It is in my personal safe, sir. I asked Mr. Helms if he wanted a copy. He said, "No, I don't want a copy, you keep it." So there was no distribution within the agency to anybody else.

Mr. BOB WILSON. May I ask, Mr. Chairman, how are these copies of the records obtained, by court order?

Mr. NEDZI. In response to your question, from my personal knowledge they were presented to me by Mr. O'Neill on Friday. And I would like to inquire about that at this time.

General WALTERS. I believe it was at the second meeting with the Senate Armed Forces Committee they asked me if I had made a record. I said I had. They asked me if I could get them and I said, "Mr. Buzhardt asked me to leave them with him to see if there was anything he might be worried about." I was a little concerned to the reference to the Chilean Embassy burglary, even though we didn't have any part in that. While I was in the committee meeting Mr. Buzhardt called Dr. Schlesinger and Dr. Schlesinger called me and said he had no claim of executive privilege and they could be delivered to the committee, and were delivered to the committee that day.

Mr. NEDZI. What day was this, do you know?

General WALTERS. It was the day I testified the second time before the Senate Armed Services Committee, and that was the 17th.

Mr. NEDZI. It was the day after you appeared at our committee hearing?

General WALTERS. That is correct.

Mr. NEDZI. Who was the secretary who typed the memo?

General WALTERS. My secretary, Mrs. Lewis, Mrs. Nancy Lewis.

Mr. NEDZI. Is she still in your office?

General WALTERS. Yes; she is, sir.

Mr. NEDZI. Counsel has just mentioned, do you have a memorandum which is not initialed?

General WALTERS. Yes; I do.

The only thing I am wondering is if I may not have put that initial on there the morning I was just reading it, because I see on these others it is not here. There is also an ink blotch at the top.

Mr. BOB WILSON. Do you have the original records with you?

General WALTERS. Wait a minute, this is the 29th—no, sir; the Senate Armed Services Committee has the original.

I do not have the initial on this one.

Mr. NEDZI. Does that mean there were more than one copy?

General WALTERS. That means there were copies made when we decided to take them down to the three people.

Mr. HOGAN. May I compare this with what he has, Mr. Chairman?

Mr. NEDZI. Yes.

General WALTERS. The only conclusion I can draw from that is after these copies were made, I may have doodled that on there. This is exactly the same copy I am sure.

Mr. NEDZI. What made you doodle that on there, General Walters?

General WALTERS. I don't know, sir. I believe it is the same typewriter.

Mr. HOGAN. Let me show this to the chairman.

General WALTERS. All right, fine.

Mr. HOGAN. Is this the original, General?

General WALTERS. No, sir; the original is in the hands of the Senate Armed Services Committee.

Mr. HOGAN. But yours was taken from their original?

General WALTERS. I believe it was, sir. It seems to be a photostat or Xeroxed copy of the same one. There seem to be the same typographical peculiarities.

I have a habit, Mr. Chairman, when I am giving anything, of putting a "W" on it to show I read it, nearly all papers that come across my desk.

Mr. NEDZI. Why would you put "W"s on four of the memos and not on the rest of them?

General WALTERS. The only thing I can think of, sir; was habit. I realized there was no need for me to put a "W" on it.

Mr. NEDZI. On your covering note, you use the language "Showing clearly I did not believe the President knew * * *"

Would you refer the subcommittee to where it shows clearly that you do not believe that, or did not believe that?

General WALTERS. My copy, on my memorandum on the conversation of the 26th of June, Mr. Chairman, dated the 28th of June, on the second page, at the end of the second paragraph, and at that point "the scandal would be 10 times greater if such action could only be done upon direction at the highest level and those who were not touched by the matter now would be." That is the first reference.

Mr. NEDZI. That shows clearly that you didn't believe that the President knew anything about it?

General WALTERS. I believe so, sir; to my mind it did. If I may go on.

Mr. NEDZI. Yes.

General WALTERS. On the 29th, on the memorandum dated the 29th of June, on the conversation of the 27th of June, "agency involvement by direction at the highest level would undoubtedly become known sooner or later and would then reach people who were still uninformed."

Mr. NEDZI. That indicates clearly the President didn't know?

General WALTERS. It indicated my belief to that effect, sir.

On the 29th of June memorandum, of the talk of the 28th of June, the last paragraph on the page, " * * * but if there were agency involvement, it could be only at Presidential directive and the political risks that were concomitant appeared to me to be unacceptable. At present there was a high explosive bomb but intervention such as he had suggested would transform it into a megaton hydrogen bomb. The present caper was awkward and unpleasant. Directed intervention by the agency could be electorally mortal if it became known and the chances of keeping it secret were almost nil."

Mr. NEDZI. How do you conclude from that it showed clearly that the President did not know?

General WALTERS. I didn't say it showed clearly the President didn't know. I said it was my belief he wasn't involved. My belief was based principally on the fact I thought the President was too experienced to be involved in anything as stupid as this.

Mr. NEDZI. That is something else. There is nothing in this memorandum that I can see that indicates clearly to any reasonable man the President didn't know.

General WALTERS. On the memorandum of the 6th of July my talk with Mr. Gray—the bottom of the page:

To implicate the Agency would not serve the President but would enormously increase the risk to the President.

I had a long association with the President, and was as desirous as anyone of protecting him. I did not believe a letter from the Agency asking the FBI to lay off this investigation on the spurious grounds it would uncover covert operations would serve the President. Such a letter in a covert atmosphere would become known. On the next page of the same memorandum, that is page 2 of that memorandum of my conversation with Mr. Gray on the 6th of July, I said:

If I were directed to write a letter to him saying that future investigation of this case would jeopardize the security of the U.S. and covert operations of the Agency, I would ask to see the President and explain to him the disservice I thought this would do to his interests. The potential danger to the President of such a course outweighed any protective aspects it might have for other figures in the White House and I was quite prepared to resign myself on this issue.

I believe there is one more reference, and that is in my conversation with Mr. Gray on the 12th of July, in a memorandum dated July 13, the second page of it, the end of the paragraph, at the top of the page:

I agreed saying that in my view the President should be protected from his self-appointed protectors who would harm him while trying to cover their own mistakes.

Mr. NEDZI. General Walters, will you now for the record define what you meant by "The President knew"?

General WALTERS. The President knew, sir?

Mr. NEDZI. Yes. Knew what?

General WALTERS. If the President was aware in advance of the plan to bug the Watergate.

Or did he know about what Mr. Dean was trying to get me to do.

No, sir, I do not believe he did, because when I said to Mr. Dean, "If you push me on this, I will ask to see the President," he pushed no further.

That was the end of my dealings with Mr. Dean, pretty much, except for the 14th of July meeting.

Mr. NEDZI. You are defining as "knew" in advance of the bugging, and also what Mr. Dean was trying to do, generally speaking?

General WALTERS. Yes, sir.

Mr. NEDZI. How did you understand, or what did you understand the middle of the third paragraph of your July 13 memorandum—this is Committee No. 9—of your meeting with Mr. Gray on July 12?

General WALTERS. Yes, sir.

Mr. NEDZI. What did you understand those words to mean toward the end of the conversation. "The President asked him if he had talked to me about the case" et cetera?

General WALTERS. I presume he wanted to know what my recommendation was.

Mr. NEDZI. How can he know what your recommendation was if he didn't know anything about it—information about what?

General WALTERS. He asked Gray whether Gray had spoken to me. Gray said he had.

He said "What does Walters think?"

Mr. NEDZI. About what?

General WALTERS. About Dean's attempt to get me to implicate the CIA, I presume.

Mr. NEDZI. Didn't he have to know what Dean was doing?

General WALTERS. I don't know, sir. I presume Gray must have told him something. I did not talk to the President.

Mr. NEDZI. Then how can you say it shows clearly the President didn't know?

General WALTERS. Sir, in my mind it was perfectly clear that he did not know. I had had no indication. When I said let me talk to the President, they called off the whole thing.

Mr. NEDZI. Is this no indication—this paragraph?

General WALTERS. The only conclusion I can draw from that, sir, is I presume Mr. Gray had told him what I had told Gray in the previous meeting about my talk with Dean.

That was the only conclusion I drew from that, that Gray had told the President about my conversation with Mr. Dean.

Mr. NEDZI. Didn't the President have knowledge of what Dean was trying to do?

General WALTERS. I don't know sir, I don't know what Gray told him. You would have to ask Mr. Gray what it was he told him.

Mr. NEDZI. You are quoting the President here.

General WALTERS. I am quoting Mr. Gray quoting the President, sir.

Mr. NEDZI. That is correct.

This is what Mr. Gray told you, isn't it?

General WALTERS. To the best of my recollection, that is correct, yes, sir.

Mr. NEDZI. There are quotation marks around the words.

General WALTERS. Yes, sir.

Mr. NEDZI. General Walters, I don't understand how you can say that this memoranda shows clearly that the President didn't know.

General WALTERS. I am sorry, sir, that is what it meant to me. It did not occur to me the President knew.

Mr. NEDZI. You don't see any inconsistency in what you are saying right now?

General WALTERS. Not right now, sir. Perhaps in reflection I may, but right now I do not. As soon as I threatened to go and see the President that was the end of the story. I had the impression of people who were very much afraid he would find out.

Mr. NEDZI. Why do you suppose the President would say, then, I should get rid of whoever is involved, no matter how high?

Why would he say that if he didn't know?

General WALTERS. I would presume Mr. Gray had told him what was going on, as far as Mr. Gray knew. I told Mr. Gray in some detail——

Mr. NEDZI. In that event he had knowledge of something going on, didn't he?

General WALTERS. I would presume Mr. Gray had told him, sir.

I had no personal knowledge that he had knowledge. I knew only from what Mr. Gray told me.

Mr. NEDZI. I am asking you for your interpretation of these comments. Now you are telling me you presumed Mr. Gray told him, so he knew.

General WALTERS. My interpretation is, and I may be wrong, that Mr. Gray told him there were obviously some people attempting to put the blame on CIA, and perhaps the FBI, as I understood it.

Mr. NEDZI. Isn't that what Dean was trying to do?

General WALTERS. I believe so, sir.

Mr. NEDZI. Then the President did know what was going on?

General WALTERS. Sir, I don't know in detail he knew what was going on. I am talking from hearsay evidence.

Mr. BOB WILSON. Mr. Chairman.

Mr. NEDZI. Yes, Mr. Wilson.

Mr. BOB WILSON. Did you believe Gray when he told you he talked to the President?

General WALTERS. I had no reason not to believe him, sir. I had a high opinion of Mr. Gray, a very favorable opinion.

Mr. BOB WILSON. If you did believe Gray, you had a pretty strong opinion the President knew, did you not?

General WALTERS. There was some effort to confuse the issue, and I had talked to Dean, and how much he told the President, Mr. Gray did not tell me.

Mr. MELVIN PRICE. Mr. Chairman.

In that language, last Friday the President called him to congratulate him on the FBI action which had frustrated the airplane hijacked to San Francisco. Toward the end of the conversation the President asked him if he had talked to me about the case. What case was he talking about.

General WALTERS. Sir, I don't remember in detail. That is what I remember his saying.

Mr. MELVIN PRICE. He wasn't talking about the hijacking, was he?
General WALTERS. No, sir.

Mr. MELVIN PRICE. There was only one other case——

General WALTERS. I don't believe he was talking about the hijacking at all, sir.

Mr. FISHER. Mr. Chairman.

Mr. NEDZI. Mr. Fisher.

Mr. FISHER. General Walters, I heard your testimony the other day, and read your affidavit, which I thought was very clear discussion of your memory of what happened a year ago.

You did have the benefit of drawing upon some notes you had made at the time——

General WALTERS. I had read them earlier in the day, yes, sir——

Mr. FISHER [continuing]. For your own information.

I think in evaluating the remarks that your memorandum contained about quoting Dean as saying "It is the President's wish"——

General WALTERS. No, that was Mr. Haldeman that was about.

Mr. FISHER. Oh, that was Haldeman—"it was the President's wish that they call on FBI Acting Director" and so forth.

I would have to interpret that and analyze it in the light of the man who was saying it, if he did say it. Your memory now is that he didn't actually use those words?

General WALTERS. At the time I wrote this memorandum, 5 days later, I thought he had. When I spoke to Mr. Helms, he said "I don't think he mentioned the President's name," and I said "Come to think about it, I don't either." This is the only meeting I ever had with Mr. Haldeman in the period since I have been Deputy Director at CIA. I have been told when he wanted things, he often used this phrase. I do not know from personal experience, because this is the only conversation I had with him.

Mr. FISHER. Sure. It could very well be, if he did use it he was doing it in order to impress you with how much authority he was throwing around when he seemed to be doing a lot of that?

General WALTERS. Sir, when I was an aide to a general during the war, he wanted something or I wanted something difficult to get, I would say "We have a requirement for," the "we" being somewhat vague, and that produced results.

Mr. FISHER. You thought it over, testified a half dozen times before several committees. You read your memorandum. You are under oath now. What is your best judgment and best memory now as to whether the words "the President" was used?

General WALTERS. I would say no. It was not used. I said to Mr. Gray a couple days later it was implicit but not used.

Mr. FISHER. That is all.

Mr. NEDZI. Thank you, Mr. Fisher.

General Walters, when you appeared before this subcommittee on May 16th, you made this kind of reference to the meeting which was held, the first meeting on June 23, with Mr. Helms, Ehrlichman, Mr. Haldeman and yourself.

General WALTERS. Yes, sir.

Mr. NEDZI. You said Mr. Helms said there was no involvement by the CIA in the Watergate bugging, but an investigation of the financial part of it might uncover some methods or techniques by which the Agency moved money.

That is not quite the same thing as the Agency being involved in the bugging.

Now, at that time, we were discussing the fact, as testified to, that Mr. Helms had indicated to Mr. Haldeman and Mr. Ehrlichman that he had talked to Mr. Gray the preceding day.

General WALTERS. That is right, sir.

Mr. NEDZI. And had told them there was no involvement in the Watergate?

General WALTERS. That is right, sir.

Mr. NEDZI. Here you are telling us involvement by the CIA is not the same as uncovering assets.

You were describing the difference between involvement and uncovering assets.

I want to refer you to your memorandum dated June 28, 1972, in the third paragraph, "Memorandum to the Committee No. 2", you state the following:

Director Helms said that he had talked to Gray on the previous day and had made plain to him that the Agency was not behind this matter, that it was not connected with it and none of the suspects were working for, nor had worked for, the Agency in the last 2 years. He had told Gray that none of his investigation was touching any covert projects of the Agency, current or ongoing.

General WALTERS. That is right.

Mr. NEDZI. If he had told him that, the day before, apparently he had told him that pursuant to some review of the problem within the Agency, and yet you went to Mr. Gray on that afternoon with a lie that the Agency was involved in—that the FBI may uncover some CIA assets.

General WALTERS. Sir, I would like to recreate the atmosphere of this. This is the Chief of Staff to the President telling me that further investigation might uncover some of the CIA's assets. "Projects" is an entirely different thing, "Activities" is an entirely different thing. There might be some dormant channel. I doubt if Mr. Helms or I would know all of the channels and all of the assets the CIA might have for such projects. There was no lie involved on my part. I did not know that the White House did not have better information than I had. Sometimes the Agency has supported certain White House projects overseas, and there might have been something being done in Mexico that I did not know about.

I did not say it would uncover activities, I said it might uncover methods or channels for moving the money back and forth. Mr. Helms himself was there. He knew that he did not know all of the assets and channels and so forth of the Agency.

Mr. BOB WILSON. Mr. Chairman.

Mr. NEDZI. Just a moment. Mr. Wilson.

On page 196 of the testimony, this is what Mr. Helms said:

I said to General Walters that I thought that was going too far, he shouldn't go that far in speaking to Mr. Gray. He should only go as far as to say that if Mr. Gray in his investigation ran into any CIA operations in Mexico, he should remember about the delimitation agreement between the FBI and the CIA and advise the CIA that he had done so.

Now, that doesn't indicate to me that there was any doubt in anybody's mind about whether some CIA assets were going to be uncovered.

General WALTERS. Sir, I had been in the Agency six weeks at the time. I went to Mr. Gray and referred specifically to the agreement between the FBI and CIA. And he said he would be mindful of that agreement. He apparently knew what I was talking about and said he would observe it.

Mr. NEDZI. At the time this approach was made to you, General Walters, was there any doubt in your mind about what the ultimate intention was, the reason for the approach?

General WALTERS. My impression was, Mr. Chairman, that something was wrong, and that the option of blaming the CIA for it was being explored, as indeed it was on three separate occasions.

Mr. NEDZI. Why do you use the word "option"?

General WALTERS. I don't think any definite decision had been made by Mr. Dean or whoever else was working with him on how they were going to handle it.

Mr. NEDZI. To name somebody other than the culprits?

General WALTERS. When I went to see Mr. Dean, sir, he said the FBI is investigating this case on the basis of three assumptions. It was done by the Committee to Reelect the President; it was done by the CIA; or it was done by somebody else. I said I don't know who did it, but I can tell you the CIA did not do it.

Mr. NEDZI. When you say "three assumptions," did you regard those as assumptions which an investigator would pursue in pursuing the truth?

General WALTERS. I would think so.

Mr. NEDZI. Or were their assumptions in an effort to pin the blame on somebody other than the true culprits?

General WALTERS. Sir, in the atmosphere at this time there was not all this atmosphere of wrong-doing. It is very difficult to go back to what was going on at this time.

Mr. NEDZI. Because nobody knew about it?

General WALTERS. Because nobody knew about it. And the idea there was high-level hanky-panky going on, this is unthinkable. It is not the atmosphere of today. It is the atmosphere of the week after this happened.

This man called me in and tried to get me to accept blame for my organization, and I refused.

As I refused on two subsequent occasions, and he then left me alone.

Mr. NEDZI. Throughout all of your conversations, however, even with Mr. Gray, you always referred to such things as "Mr. Gray understood what I was conveying to him. He would buy"—you said that he understood the situation was awkward, and all that goes with it.

Didn't this suggest that there was something definitely wrong?

General WALTERS. Yes, it did, sir.

Mr. NEDZI. And as a matter of fact, this whole line was—the line I am referring to is the one that CIA assets would be uncovered—was not in the cards at all from the very beginning, as a realistic concern?

General WALTERS. When the Chief of Staff to the President tells me something about an organization I joined 6 weeks before, and I have no reason to suspect him of anything, I think it would be very difficult to ask me to say immediately I realized something evil was afoot.

Mr. NEDZI. General Walters, could you tell the subcommittee what was cut out of the one memorandum that we have?

General WALTERS. Dean said to me, "Wasn't Baker involved in the burglary of the Chilean Embassy?" Well, I knew nothing about the burglary of the Chilean Embassy. I knew nothing concerned with this.

All this occurred before I came to work for the Agency, and I didn't know what he was talking about. That is the only phrase I believe that was cut out, Mr. Chairman.

Mr. NEDZI. This is what accounts for the blank in the memorandum we have?

General WALTERS. When he was trying to get me to admit CIA involvement he said to me, "But, oh, wasn't Baker involved in the burglary at the Chilean Embassy?" but which burglary I knew nothing of at the time, and only subsequently found out.

Mr. MAURY. Mr. Chairman, I can show you the original if you like.

Mr. NEDZI. Would you read the words for the record?

Mr. MAURY. Yes, sir, I will.

I will read from the memorandum of June 28, 1972.

The third paragraph of which begins:

I said that I had discussed this with Director Helms and I was quite sure that the Agency was not in any way involved and I knew that the Director wished to distance himself and the Agency from the matter. Dean then asked whether I was sure that the Agency was not involved. He believed that Baker had been involved in a clandestine try into the Chilean Embassy.

Mr. BRAY. May I ask one question, Mr. Chairman?

Mr. NEDZI. Yes.

Mr. BRAY. Has there been any determination about the burglarizing of the Chilean Embassy?

Mr. MAURY. Yes, sir, we investigated that, and found we had not been involved in this, but it was something that had happened without our knowledge as far as I have been able to determine. And certainly not with our active participation, sir.

But he had heard of it, and therefore simply brought it up, I suppose as possibly relevant in this connection.

Mr. BRAY. Have there been any arrests regarding it?

Mr. MAURY. Not that I am aware, but I can look into it. I will be glad to get the facts and bring them to you in the next day or 2, sir.

Mr. BRAY. The reason I asked that, because naturally if that is discussed—has it been discussed in the papers yet?

General WALTERS. I had thought not. But when I talked to the prosecutor, Mr. Silbert, he told me it had surfaced in the press, which I did not realize.

Mr. BOB WILSON. Mr. Chairman.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. One point I don't quite understand, General. When you appeared before and we discussed your deposition of May 12, and we pointed out where you said in the deposition:

I went over and told Mr. Gray I had been directed by top-flight White House officials to tell him that further investigation into the Mexican aspects of the Watergate episode might jeopardize some of the Agency's covert actions.

Then you later said it was Mr. Haldeman that told you to say that.

General WALTERS. The second time I saw Mr. Gray I told him. I didn't tell him the name of Haldeman and Ehrlichman, but I told him exactly the whole genesis of the whole thing.

Mr. BOB WILSON. In your memorandum of the 28th of June, where you called upon the Acting Director, Mr. Gray, you say Gray said:

This was the most awkward matter to come up during election year, and he would see what he could do. I repeated that if the investigation were pushed south of the border it could trespass upon some of our covert projects. In view of the fact that the five men involved were under arrest it would be best to keep the matter off there.

It seems to me it sounds like you are selling pretty hard, you are not just carrying the message that the White House wanted you to do it, but you are arguing pretty strongly——

General WALTERS. I was told to get that message to him, sir. I was directed to get that specific message to him.

Mr. BOB WILSON. Didn't you feel very strongly it shouldn't be done?

General WALTERS. I had some misgivings, sir, but as I say, I didn't have the background I now have. Coming from the No. 2 man in the White House, I didn't have any reason at that time.

Mr. BOB WILSON. You realized in talking to Mr. Dean this was a pretty bad thing, and it could be—well, it could cause a lot of problems. You had a crystal ball there, as to what was going to happen——

General WALTERS. Sir, after I saw Mr. Gray the first time I went back to the Agency to check to see if there was any truth in this allegation.

Mr. BOB WILSON. Truth in what allegation?

General WALTERS. It would uncover methods or means of transmitting money. I went back to the Agency and I checked this with our geographical people and they said "No," that is why. When I went to see Mr. Dean on Monday, this having happened on Friday, I was able to tell him there wasn't any involvement.

Mr. BOB WILSON. You weren't just a good soldier taking orders from the White House?

General WALTERS. Sir, if I hadn't been a soldier, and the Chief Adviser to the President told me to do something, I think a soldier or a civilian would have done the same thing I did. Maybe not all. Maybe there are some people that would have refused.

Mr. NEDZI. I want to thank you for bringing this to my attention, because a point has been made of it. The language used in your affidavit, General Walters, "is some of the Agency's covert actions in that area?" You are referring to covert actions in your memorandum dated 28 June relating to your meeting with Ehrlichman and Halde-man on June 23. You say that Helms had told Gray that none of his investigation was touching any covert projects of the Agency.

General WALTERS. That is right, sir. If I used the word "projects" in the second place I made a mistake. What I was told is if the investigation was pursued on the money, it might uncover some of the Agency's assets, that is, people, or some of the Agency's methods for moving money to and from Mexico. That is what I understood about it.

Mr. NEDZI. General Walters, it strikes me there are an awful lot of mistakes being made in the last week. We all grant the mistakes that were made back in June.

General WALTERS. Sir, this is almost a year ago.

Mr. NEDZI. Why would you make a statement like, "in view of the fact that the five men involved were under arrest it would be best to taper the matter off there?"

General WALTERS. I believe that I was told to use those exact words by Mr. Haldeman, sir. Since the men are now under arrest, it is best not to continue this investigation in Mexico—not anywhere else, in Mexico.

Mr. NEDZI. Yet, that does not appear in your memorandum covering the June 23 meeting?

General WALTERS. No, sir, I said before, these notes did not purport being a verbatim record of what happened. I wrote that memorandum 5 days after I talked to Mr. Haldeman.

Mr. NEDZI. You didn't recall it then, but you recall it almost a year later?

General WALTERS. I don't follow, Mr. Chairman.

Mr. NEDZI. My point is, it seems to me that the memorandum which you prepared 5 days after events has a great deal more authenticity than your recollection 10 months after.

General WALTERS. I think that would be correct; yes, sir.

But I am quite certain when I said "taper off," I mean in Mexico only. Mr. Helms had enjoined me "Do not get outside of the Mexican field."

Mr. NEDZI. General Walters, you repeatedly testified that in your conversations with Mr. Dean you stated that the responsible parties should be fired.

General WALTERS. Yes, sir.

Mr. NEDZI. Where in any of your memorandums for the record, did that appear?

General WALTERS. Sir, I did not put it down. It appears in my conversation with Mr. Gray, when I told him of my conversation with Dean——

Mr. NEDZI. It does not say you told that to Dean. You told that to Mr. Gray.

General WALTERS. Mr. Gray, that is right, but I am sure I told it to Dean also, sir, on each occasion I am sure I told it to him.

Mr. NEDZI. Why would you not make a reference to it, if you make a reference to it with respect to your conversation with Mr. Gray?

General WALTERS. Sir, I did not make a memorandum as to my threat to resign, but I threatened to resign in all three of the notes.

Mr. NEDZI. I was going to get to that. Why did you tell Mr. Dean you are threatening to resign, or that the responsible parties should be fired? For what?

General WALTERS. For trying to cover this whole thing up and implicate us.

Mr. NEDZI. This was something to be covered up?

General WALTERS. My impression was he was obviously trying to cover up something, sir.

Mr. NEDZI. What did he tell you to do?

General WALTERS. He asked me to have the CIA assume the responsibilities and pay the bail for these men in jail; and I said I couldn't do it.

Mr. NEDZI. You took issue with him and you were satisfied. Why would that provoke the comment of firing responsible parties and threatening to resign?

General WALTERS. Sir, he kept on coming back to me on this issue, couldn't the Agency, wouldn't the Agency, can't the Agency? That is what provoked my threat to resign.

Mr. NEDZI. The difficulty I have in assessing your memoranda which were prepared shortly after the event, and in understanding why a comment of that sort which is obviously of moment—far more significant than any of the comments you made—would not be included in the memorandum when it was included with respect to your conversations with Mr. Bray?

General WALTERS. No question that it should have been.

Mr. NEDZI. Not only that, General Walters, but at this late date, it is entirely self-serving; is it not?

General WALTERS. Sir, Mr. Helms, I believe—I came back and told Mr. Helms of my threat to resign and Mr. Helms said:

I don't care whether you resign or don't resign, you can't be the goat in this. I will protect the agency.

I believe he so testified.

Mr. NEDZI. There is no evidence to corroborate that?

General WALTERS. I believe Mr. Helms has so testified before one of the committees. I have seen it in his evidence. I told Mr. Helms on all three occasions I would resign. He has testified before one of the committees—I have seen the transcript in which he said to me:

I don't care whether you want to resign or not, it is the agency that has to be protected and you are not going to do it.

Mr. BOB WILSON. The Agency was not going to be the fall guy.

General WALTERS. The Agency was not going to be the fall guy.

Mr. BOB WILSON. You were not going to be the fall guy?

General WALTERS. The Agency, sir.

Mr. BOB WILSON. Oh.

Mr. NEDZI. In your memorandum of June 28, on your June 26 meeting, following the conversation, and at that time you had threatened to resign?

General WALTERS. I am not sure the first time or second two times. I threatened at least two out of the three times. I don't know what the dates of Mr. Helms' testimony to that effect is, but I have a feeling it is right after I talked to Dean the first time.

Mr. NEDZI. In the last paragraph of that memorandum, number four, for the benefit of the committee, you stated:

He then asked if I could think of any way we (CIA) could help. I said I could not think of any, but I would discuss the matter with the Director and would be in touch with him.

General WALTERS. Yes, sir.

Mr. NEDZI. What did he mean when he said he wanted Agency help?

General WALTERS. I did not know, sir. I said I would talk to the Director and phrase Mr. Dean's question to him. However, I felt I was fully cognizant of the Director's feelings in this matter.

Mr. NEDZI. What did you think he meant?

General WALTERS. I had no idea what he meant, sir.

Mr. NEDZI. Are you serious, General, you had no idea what he meant at this time?

General WALTERS. Mr. Chairman, please, I don't want to be in a position of saying I didn't think he was doing anything unusual. I did. I so testified before the Senate Armed Services Committee.

Mr. NEDZI. But you are not testifying that way now, and I have to say your testimony today is less than candid.

General WALTERS. Mr. Chairman, from the very beginning of my first conversation with Dean, it was obvious he was exploring the option of unloading the blame for this on the CIA. Who really did it, I don't know. He never admitted to me who did it from the beginning to the end.

Mr. NEDZI. It was your impression when he asked you this question, he was asking you to help in that?

General WALTERS. That is right. As I told him, I had no authority of my own. I was Deputy and I had authority only where delegated. I felt it my duty to report back to Mr. Helms. Mr. Helms reiterated his instructions to me and I went back to Dean the next day and told him "Nothing doing."

There was never any question from the beginning in my mind he was exploring the option of covering something up, but after three attempts with me, he stopped.

Mr. NEDZI. In your memo dated June 29, covering your June 28 meeting with John Dean, you said:

That the Director's meeting with Patrick Gray, FBI Director, was cancelled, and that John Ehrlichman had suggested that Gray deal with me instead.

Why was that?

General WALTERS. I do not know, sir, that is all he said to me.

Mr. NEDZI. Why do you suppose he said this?

General WALTERS. I have no idea, sir.

Mr. NEDZI. Again you have no idea?

General WALTERS. I have absolutely no idea, Mr. Chairman, why he did.

Mr. NEDZI. We will leave the record that way.

And in that memorandum you said, "the problem was how to stop the FBI investigation beyond the five suspects." Was that your responsibility?

General WALTERS. No, sir. That was his. He is saying this, not me. This is Dean saying this.

Mr. NEDZI. Which clearly suggests something illegal, does it not?

General WALTERS. That was my impression, sir, he was exploring the possibility of doing something illegal. Not that he had done it, but he was exploring the possibility of doing it.

Mr. NEDZI. General Walters, last Wednesday when you appeared before the committee I posed a question to you, and prior to my posing the question, you stated in your affidavit that perhaps the Cubans were anti-Castro and might have had a hand in it. CIA did not.

I inquired why you made that statement, to which you responded:

He said to me, who could have done this? How could this have been done? Who would have had an interest in this? I noticed there was a large number of Cubans involved in this situation. I presumed the Cubans wanted to know what the policy of both parties would be, this is why I made it. I don't think there is any deep significance. He was almost pleadingly asking me for some theory, for something that would help him out in this.

General WALTERS. Right, sir.

Mr. NEDZI. Let me conclude, General.

In your Memorandum No. 6, for the benefit of the subcommittee on page 2:

He then asked if I had any ideas, and I said that this affair already had a strong Cuban flavor, and everyone knew the Cubans were conspiratorial and

anxious to know what the policy of both parties would be towards Castro. They therefore had a plausible motive for attempting this amateurish job which any skilled technician would deplore. This might be costly, but it would be plausible.

Now, why did you say that might be costly?

General WALTERS. I thought that they would have to investigate to see whether this would be the case. I did not—if the implication is I was suggesting to him that he blame the Cubans—

Mr. NEDZI. That is the clear implication, General. I don't think there is any comparison between your response to the subcommittee last Wednesday and this statement in the memorandum.

General WALTERS. Sir, all I can tell you is that I did not—and it is perfectly obvious to me he could not blame anybody for something that had not done it. He had tried with me, and he had failed.

Mr. NEDZI. He suggested this?

General WALTERS. I had read in the paper about this time a story to the effect that it might have been the Cubans who were interested in knowing what the policy of the Democratic National Committee would be that might have done it. There were a number of people involved in the Cuban community in Miami, and this is one of the assumptions I put out.

In retrospect, I shouldn't have done it, I can see that clearly, but that was not my intention at the time.

Mr. NEDZI. There are a number of things you shouldn't have done in retrospect.

General WALTERS. I readily acknowledge that.

Mr. NEDZI. Why did Dean come up with this response:

He agreed this was the best tack to take, but it might cost half a million dollars.

General WALTERS. I presume to investigate it, Mr. Chairman. I didn't know what means he had of establishing whether this was so or not. This is Mr. Dean's statement. What he meant by it is not clear to me. I thought he meant they would have to investigate it and try to find it out, and it would cost a lot of money to go through the investigation. These are fragmentary notes. I did not write out the whole thing.

Mr. NEDZI. I don't regard this as a fragmentary note. I regard your response to the subcommittee last week as fragmentary.

General WALTERS. I am sorry, sir. That is the way I remember it.

Mr. NEDZI. Following that comment:

He said that he felt that Gray's cancellation of his appointment with Director Helms might well be reversed in the next few hours.

General WALTERS. And he added no explanation, and I did not know what he meant, sir.

Mr. NEDZI. General Walters, during our hearing last week, I had initiated an inquiry with respect to why you did not advise Mr. Gray of what you had discovered with respect to assets in Mexico. Mr. Slatinshuk pursued that line of inquiry later in the hearing, to which you responded that you were dealing with Dean, and you assumed that Dean would have told Mr. Gray about this.

General WALTERS. That is correct, sir.

Mr. NEDZI. I am paraphrasing you correctly?

General WALTERS. I believe so, sir.

Mr. NEDZI. In your memorandum on July 5, No. 7 for the benefit of the committee, let me just read your testimony on page 16. You said:

To be perfectly honest, when Mr. Gray called me I was somewhat surprised he was still unaware of the fact I had told Dean that there was no further Agency interest.

Your memorandum of that conversation, dated July 5, that day, indicates the following:

On July 5, 1972, at 5:50 p.m. I received a phone call from the Acting Director of the FBI, L. Patrick Gray. He said that the pressure on him to continue the investigation were great and unless he had a document from me to the effect that their (FBI) investigation was endangering national security he would have to go ahead with the investigation of Dahlberg and Daguerre. He had talked to John Dean. I said I could not give him an immediate answer.

Now, were you surprised by anything in that conversation?

General WALTERS. I was surprised, yes, sir. First of all I didn't want to talk to him on the telephone. Secondly, I wanted to talk to Mr. Helms to make sure our position was the same.

Mr. NEDZI. Why didn't you want to talk to him on the telephone?

General WALTERS. I didn't think it was a wise idea, sir. I could go the next morning and tell him we had no connection whatsoever. I did not want to give him a snap answer as the Deputy, until I checked with the Director. The Director indicated to me we had no interest in this, and I so told Mr. Gray the next morning.

Mr. NEDZI. Did you feel it important to get back to Mr. Gray immediately to advise him of this?

General WALTERS. I probably should have, sir, but again I felt I should consult Mr. Helms to make absolutely sure. This was the end of the day, at 5:50 p.m., and it was the following morning I told him.

Mr. NEDZI. Upon your return, or at the time that Mr. Schlesinger—Dr. Schlesinger came aboard as Director of CIA, how much of this information did you tell him?

General WALTERS. I told him about the meeting with Haldeman and Ehrlichman, and my visit to Mr. Gray. I told him of my three talks with Mr. Dean in a general way, that he tried to get—

Mr. NEDZI. When was this?

General WALTERS. I would say this was either in late January or early February, Mr. Chairman. It was prior to Mr. Dean's call to him. He was aware of the fact at the time Mr. Dean called him, and Mr. Dean called him on February 9, so it was prior to that.

Mr. NEDZI. How much detail did you give Dr. Schlesinger?

General WALTERS. Not too much of the detail. I said, roughly, Mr. Haldeman, Mr. Ehrlichman had called me to the White House, and Mr. Helms. They told me to go to Dean and to Gray and tell Gray that if the investigation of the Mexican financial part were pursued, it might uncover some of the Agency's assets, and that Mr. Helms had said none of the Agency's projects that he knew of were affected by this, and then I came back to the Agency, that I checked, and then I went back to Mr. Dean on Monday morning when he sent for me and told him we were not interested in this, that we had none of

our assets that could be exposed by this, and we would not accept any responsibility for it.

I told him of the two other approaches. I believe, but I am not sure—I am pretty sure I did—the question of bail and salaries, and I told him I couldn't do it, and at the end of it, Mr. Schlesinger's comment was "Nice people."

Mr. NEDZI. Did you show him these memorandums?

General WALTERS. No, sir; I don't believe I did.

Mr. NEDZI. When did you apprise him of these memorandums?

General WALTERS. He had them—I don't know exactly when, sir. He had them some time ago. He had them available some time ago.

Mr. NEDZI. When you say "available," he had them available as soon as he came aboard, didn't he?

General WALTERS. I am not sure exactly whether he had them before I went to the Far East or not. I am not sure they were given to him in my absence.

Mr. NEDZI. Did you give them to him?

General WALTERS. I don't believe I did; no, sir. I believe Mr. Colby may have given them to him or my secretary gave them to him.

Mr. NEDZI. How could Mr. Colby give them to him if they were in your private safe?

General WALTERS. He may have asked my secretary, and she would have given them to him. She was aware I had discussed these with Mr. Colby. Mr. Colby was aware of these memorandums. One of them was in the record sent down.

Mr. NEDZI. There is one individual about whom you didn't testify earlier. Are there others?

General WALTERS. I can't recall anybody, sir. Perhaps my personal assistant, Karl Wagner, but that is the only other person, and my secretary. I do not believe there was anybody else.

Did I discuss them with you, Jack?

Mr. MAURY. No, sir.

Mr. NEDZI. It was more than a personal memorandum.

General WALTERS. Sir, I believe Mr. Colby became aware of them after a while, not initially. It was not circulated in the house. They were kept in my own office. They were not logged in in any Agency records in any way.

Mr. NEDZI. General Walters, do you think there is anything in these memorandums that are of substance which was not in your affidavit?

General WALTERS. Probably are; yes, sir.

Mr. NEDZI. Can you square that response with the response you gave to me on May 16 when I said were there any discussions with Mr. Haldeman, Ehrlichman, Dean, or Gray on matters relating to Watergate which were not described in your affidavit, and your response was, "Not to my knowledge"?

General WALTERS. I believe I described in my affidavit all the conversations I had, sir.

Mr. NEDZI. You knew what we were driving at, sir, though?

General WALTERS. What, sir; I am not clear.

Mr. NEDZI. The fact is, there were material elements involved in this transaction between you and Mr. Gray and the others in the memorandums which were not given to the committee in response to a question last Wednesday.

General WALTERS. Sir, there was no intention to withhold this from the committee. I was on my way down to deliver these memorandums.

Mr. NEDZI. To whom?

General WALTERS. To the Assistant Attorney General, to Mr. Richardson for the prosecutor, and one copy to the White House so they would not read about it in the newspapers. I felt it courteous since I belonged to the executive branch, to at least make them aware of it.

Mr. NEDZI. General Walters, how do you account for the dramatic difference in tone between the affidavit and the memorandums?

General WALTERS. Probably, sir, because I had a full view of perspective and a value of hindsight afterwards, whereas I was writing the memorandums as fragments of a picture which I did not fully perceive.

Mr. NEDZI. Mr. Chairman, do you have any questions?

Mr. HÉBERT. Yes; I would like to ask a few questions.

I will preface the question I want to ask by saying I am not expressing an opinion or drawing conclusions, but it would interest me to know about the memorandums, if they were private papers, are they part of your private papers locked in your safe?

General WALTERS. Yes.

Mr. HÉBERT. Disregarding the fact it is marked "Memorandum," how did anybody know, that you had these papers?

General WALTERS. I had told Mr. Helms I had them. I had showed them to him.

Mr. HÉBERT. Oh, you had showed them to him?

General WALTERS. I believe so; yes, sir.

Mr. HÉBERT. Then from the contents it seems to me from the testimony I read in the record here, they did surface publicly?

General WALTERS. What surface publicly?

Mr. HÉBERT. The statements you made in the memorandums, the private memorandums to yourself.

General WALTERS. I do not believe they have surfaced publicly yet, sir.

Mr. HÉBERT. That is what I want to clear up.

General WALTERS. Perhaps this noon they have, but not until this noon.

Mr. HÉBERT. No. But what I understood you to say, they were out of your possession.

General WALTERS. The only time they were out of my possession, sir, is when I took them down to Mr. Buzhardt, the counsel for the President, at the White House, the afternoon of the 11th of May, I believe. I took them down on the morning of the 11th of May to Mr. Buzhardt. That is the first time they were out of my possession.

Mr. HÉBERT. Then returned to your possession the same day?

General WALTERS. They were returned to my possession. I brought the originals up to the Senate Armed Services Committee and gave them to Senator Symington. I asked Mr. Maury to distribute them to all the committees, including this one, and the Appropriations Committee, and I also gave a copy to the prosecutor, Mr. Silbert.

Mr. HÉBERT. You gave them to Symington. Did he request them?

General WALTERS. Yes; he asked me to get the record and I gave them to him. He didn't ask me, but Mr. Woolsey I think asked me.

Mr. HÉBERT. Somebody asked you, and you said you did have them, is that correct?

General WALTERS. That is correct, sir.

Mr. HÉBERT. I have a recollection, bad as it may be, having read about this or heard it on the television, that you in effect stated the contents of what is in these memorandums.

General WALTERS. I have never made any statement publicly concerning the memorandums.

Mr. HÉBERT. I am wondering how the memorandums surfaced to the public?

General WALTERS. I believe the Senate Armed Services Committee released it, sir, that is my belief.

Mr. NEDZI. The affidavit was released.

Mr. MELVIN PRICE. It could have been the affidavit, couldn't it, General?

General WALTERS. The affidavit was released, but there is no mention of the memorandums in the affidavit.

Mr. HÉBERT. That is where I got it from, the affidavit.

General WALTERS. Yes.

Mr. HÉBERT. Again, I say I form no opinion or draw no conclusion, but in reference to the practice of the White House saying it is the President's wish, or the President has asked me to ask you, or the President has said to tell you, that is the modus operandi of the White House liaison staff, including Mr. Haldeman and Mr. Ehrlichman, without the President ever knowing anything about it. I am convinced of that part.

General WALTERS. I am also, sir.

Mr. HÉBERT. As I say, as a Member of Congress, many of us who have occasion to keep in touch with the White House have frequent calls from there and the first thing they say is, "the President asked me to ask you," when the President doesn't know a thing about the conversation at all. I know this to be a fact from my own personal experience.

Now, there are numbers, perhaps hundreds of letters, which are written to the White House, and an answer they say, "the President has asked me to respond to your letter." You and I both know the President physically couldn't see all these letters and the President hasn't "asked." I want to clear that as the other side of the coin. This is not unusual, but the usual procedure of the White House.

Now, Mr. Helms refused to cooperate with Mr. Dean or Mr. Haldeman or Mr. Ehrlichman, and subsequently Mr. Helms was relieved of his duties as CIA Director.

General WALTERS. Yes, sir.

Mr. HÉBERT. I believe he did not desire to be relieved. This is a fact also.

General WALTERS. He never discussed the reasons for his relief with me, sir. Mr. Helms had established in the Agency a rule of retirement at 60, he was close to his own birthday of 60, which I believe was in March.

Mr. HÉBERT. That was never suggested, to my knowledge. I am just putting two and two together, and drawing no conclusion.

It is a matter of fact, after he failed to cooperate, he was relieved, and Haldeman and Ehrlichman at that time were still calling the shots at the White House. And then there were a series of other events, not related to this, and a series of other removals of other people, using the

same procedure instantaneous removal of individuals that failed to cooperate.

I am not trying to in any way indicate the President ultimately didn't know about this thing, but it is a very plausible thing to tie all these things together. That is all I am trying to do.

General WALTERS. Very plausible in hindsight, sir.

Mr. HÉBERT. Naturally, in hindsight, when you put the facts together based on what happened before. That is the way you judge a race horse in a racing form.

Anyway, we come to the situation with which we are confronted now—that with this series of events.

General WALTERS. Yes.

Mr. HÉBERT. You testified to what Haldeman told you, if I understand you.

General WALTERS. Or what Gray told me.

Mr. HÉBERT. Or what Gray told you, or what anybody told you. You didn't know it. In effect you are testifying to what somebody else told you.

General WALTERS. That is correct.

Mr. HÉBERT. You, yourself, do not know whether it was the President's wish or not?

General WALTERS. No, sir.

Mr. HÉBERT. On that point. Up to this time there has been nothing with reference to admissible testimony, except hearsay. I don't know where the road is going to end, mind you, I don't know where it is going to end. I am very cautious in what I am saying. A lot of damage could be done to this country by this information getting out and surfaced publicly. It adds to the tragedy and the turmoil we are going through.

Mr. ARENDS. Mr. Chairman, I am pleased with the statement you made, Mr. Hébert, so forthrightly, because what he has said is exactly true. I have been around here a long time, in and out of the White House a long time, many, many times, and the operation business goes on and on and on, and it has over the decades. You never get the word out of the horse's mouth. Somebody says this, and it is supposed to be what somebody says. So like yourself, when you draw conclusions today, the fact remains the way you stated. It is exactly the feeling I have about it.

It is by indirect methods, and what has been said in the papers in the headlines doesn't bother me because it definitely is not to the point that somebody says "This is it." I am glad you made your statement as you did.

Mr. HÉBERT. The reason I did make the statement—the headlines may not bother you, but they bother me.

Mr. ARENDS. The other day after the CIA was before the Senate committee, one or two of the Senators came out and made their own statement. These are things we have to be careful about now, extremely careful about until all the facts are on the table.

Mr. FISHER. Let me ask one concluding question that occurs to me.

Aside from this Ellsberg business, which had nothing to do with the Watergate—that related to a national security problem, which was another matter—aside from that, has the CIA yielded to, assisted, or contributed one bit to Haldeman, Dean, and Erlichman in their desire

to involve the CIA in matters in Mexico, or the bail business or anywhere else?

General WALTERS. Only in the initial thing of going—as I say, at that time, the idea that this number two man in the White House would be asking me to do something wrong never crossed my mind.

Mr. FISHER. I understand that.

General WALTERS. Outside of that, the answer to your question is no, sir.

Mr. FISHER. I am talking about the net results of the whole thing, forgetting about the exchange between them.

General WALTERS. No, sir.

Mr. FISHER. Has the CIA cooperated with or given them anything that they requested on the part of the CIA, anything they wanted them to do?

General WALTERS. I couldn't answer for other areas. In this area, this type of thing, I am sure not.

Mr. FISHER. All right. The Mexico involvement, the Bank of Mexico and the money, the CIA didn't go along on that?

General WALTERS. No, sir.

Mr. FISHER. Allright, the bail money for these defendants?

General WALTERS. No, sir.

Mr. FISHER. The CIA didn't go along on that?

General WALTERS. No.

Mr. FISHER. Can you think of any other specific request, physical act, that they requested?

General WALTERS. Of course the Hunt stuff, which occurred before I came to the Agency.

Mr. FISHER. I said we would leave out the Ellsberg case.

General WALTERS. No, sir, not that I know of, not to my knowledge, sir, and as I said to this committee before, and I repeat, the question to me was intents.

Mr. FISHER. I don't see how the CIA has compromised itself one bit on anything relating to this. You didn't do anything they asked you to do.

General WALTERS. That was my impression earlier in the day, sir.

Mr. HÉBERT. You don't know what your impression will be tomorrow, General.

Mr. FISHER. That is all.

Mr. BOB WILSON. The only question I would like to have for the record, of these memorandums that you made last year, General, there are some on the 28th of June——

General WALTERS. I believe I wrote three on the 28th, sir, covering the meetings on the 23d, 26th and 27th.

Mr. BOB WILSON. It is pretty obvious——

General WALTERS. I wrote them the same day.

Mr. BOB WILSON. This is a little different than your standard procedure, as you said, and it is pretty obvious you thought this was a pretty grave matter that was underway and you wanted to have a clear record of what you had done.

General WALTERS. I never dreamed it would come up to what it has come up to, sir. If I had, I would have attempted to write a much more detailed memorandum.

Mr. BOB WILSON. In each instance, you called your secretary and dictated memorandums?

General WALTERS. I may have either called, or written it out in long-hand, I am not sure.

Mr. BOB WILSON. What is your usual practice?

General WALTERS. I do both. She typed it, however, from the long-hand, if I did write it out in longhand. She typed it.

Mr. BOB WILSON. Getting back to the question you were asked before, regarding the Agency practice—I notice on the statement that Mr. Schlesinger had, it also says “Memorandum for the record.” Are you instructed to——

General WALTERS. No, sir.

Mr. BOB WILSON [reading]. To write things so that you will be able to recall them better——

General WALTERS. Not normally.

Mr. BOB WILSON [reading]. Than right after it happened?

General WALTERS. This is a rather serious case, involving the people it did. I do not normally do this.

Mr. BOB WILSON. Do you keep a diary every day of your activities?

General WALTERS. Yes, sir; I do.

Mr. BOB WILSON. Phone calls?

General WALTERS. Not phone calls.

Mr. BOB WILSON. Where you were?

General WALTERS. Yes, I keep a record specifically of who I saw and where I was.

Mr. BOB WILSON. Is there any question in your mind that these memorandums were typed on the days that are stated, like the 13th of July, the 18th of May, the 28th of June?

General WALTERS. No question, sir, they were.

Mr. BOB WILSON. In each case it was by your secretary, Mrs. Lewis?

General WALTERS. Mrs. Lewis; yes, sir.

Mr. BOB WILSON. That is all I have, Mr. Chairman.

Mr. HÉBERT. When Mr. Dean, Ehrlichman, or Haldeman suggested to the CIA that the CIA pay these people——

General WALTERS. That was Mr. Dean, sir.

Mr. HÉBERT. That was Dean that did it.

Anybody at all, any man of normal intelligence would pull back at that particular time if a man in the position of Dean at the White House would suggest something like that. It is obviously a dangerous thing to do.

General WALTERS. I told him it would destroy the integrity of the Agency and implicate it in something it was not implicated in.

Mr. HÉBERT. This is cops and robbers, mostly robbers, Dean played. It is so fantastic, it is unbelievable.

General WALTERS. If anybody had told me this is what was going to happen at the beginning, I would never have believed it. The whole thing is incredible.

Mr. HÉBERT. The man in the White House suggesting this method be pursued is something beyond me.

General WALTERS. He didn't push me on it. When I said, “No——

Mr. NEDZI. Mr. Price.

Mr. MELVIN PRICE. General Walters, both requests, if they had been accepted, would have destroyed the integrity of the Agency, wouldn't they?

General WALTERS. No question.

Mr. MELVIN PRICE. The one from Haldeman and Ehrlichman as well as the one from Dean.

Now, you had a specific mention when you went to Gray, didn't you?

General WALTERS. Yes.

Mr. MELVIN PRICE. That mission was one to fulfill the requests of Haldeman and Ehrlichman?

General WALTERS. Ehrlichman, as I remember it, didn't tell me anything. Haldeman did all the talking at the meeting.

Mr. MELVIN PRICE. Then later Mr. Gray told you that the President—in a telephone conversation—wanted to know whether he had talked to you about the case?

General WALTERS. That is right.

Mr. MELVIN PRICE. So then he knew at that time about the meeting with Haldeman?

Mr. BOB WILSON. He knew you had been called?

General WALTERS. He knew I had been called in. How he knew or who told him, or from what particular source, I don't know, or whether Mr. Gray told him.

Mr. MELVIN PRICE. Mr. Gray didn't call you?

General WALTERS. Mr. Gray did not call me; no.

Mr. MELVIN PRICE. Haldeman called you, and the President knew that?

General WALTERS. I would presume so, sir, I don't know how else he could have known.

Mr. MELVIN PRICE. Also, he knew you talked to Mr. Gray, and he asked Mr. Gray whether or not you had talked to him, and Mr. Gray replied that he had?

Mr. BOB WILSON. Would you yield?

Mr. MELVIN PRICE. Then the President wanted to know what the recommendation was in the case.

Mr. FISHER. Well, there was nothing in there that said the President—

General WALTERS. That is the 13th of July. I had already seen Gray on the 6th and told him as much as I knew about it.

Mr. MELVIN PRICE. I am speaking from your memo of the 13th of July, this happened on the 12th of July?

General WALTERS. Right. But I had seen Gray on the 6th of July, and I had told him that I had been called to the White House and so forth and so on, and that I had seen Dean, and had told him whatever the current implications were and so forth. I told him the whole story of my conversations with Dean.

Mr. MELVIN PRICE. On what date did you tell him that?

General WALTERS. I told Mr. Gray on the 6th of July.

Mr. MELVIN PRICE. This telephone call from the President to Mr. Gray was on the 7th of July?

General WALTERS. That is right.

Mr. MELVIN PRICE. A day after you talked to Mr. Gray?

General WALTERS. That is right.

Mr. MELVIN PRICE. This is the thing that bothered me, this particular memorandum. It does indicate knowledge of the President of your meetings with Haldeman and the request that they made of you.

General WALTERS. Well, he just says, toward the end of the conver-

sation, "the President asked me if he had talked to me about the case," but I don't think it is tied particularly to Haldeman rather than to Dean.

As you know, at this time there was a great deal of speculating going on in the press concerning CIA involvement. The Hunt business had become clear. The previous CIA connections of a number of people who had been arrested had become public knowledge and there was widespread speculation in the press concerning CIA involvement and that might perfectly well have led the President to ask Gray if he talked to me to know what the CIA position was.

Mr. MELVIN PRICE. You would assume, though, if this had been the situation, the President would have asked if he talked to Director Helms about the case.

General WALTERS. He might have asked him that, sir, I don't know.

Mr. MELVIN PRICE. How did Buzhardt know about your memorandum?

General WALTERS. I went down and told him, sir.

Mr. MELVIN PRICE. He did not request the memorandum of you?

General WALTERS. He did not, I went down and told him about them. I went down and took them and the affidavit to him.

Mr. MELVIN PRICE. That is all I have.

Mr. BOB WILSON. Mr. Chairman, just to continue the line of questioning. In the same memorandum of July 13, you said again "the President then asked what I thought," meaning you, what you thought. Gray said your views were the same as his.

Now, the President took it well, and thanked Gray.

I am disturbed about this memorandum, General, because there is at least an implication—there has to be an implication, that the President knew of your reason for going to see Gray, and so forth. That doesn't mean I believe he knew, because I frankly don't think he did.

But he had to know, of course, at this time that the men had been arrested, that there was talk about CIA involvement, that he wanted to find out if the CIA had in fact been involved.

General WALTERS. That is right.

Mr. BOB WILSON. Is the implication here, or your going back and studying now almost a year later your memorandum that you wrote yourself, the feeling that perhaps the President was merely interested in trying to find out really what had happened?

General WALTERS. That was my impression, sir, when Gray said to him his view and mine was that he should fire the people who were connected with it, the President took this very well.

Mr. BOB WILSON. I see. That is what you meant by "the President took it well"?

General WALTERS. That is what I meant by it, sir.

Mr. HERBERT. Mr. Gray told him that the President said that.

General WALTERS. Mr. Gray told me. Again it is hearsay, what Mr. Gray told him. I didn't know whether the President took it well, this is what Gray told me.

Mr. BOB WILSON. I think, Mr. Chairman, we ought to talk to Mr. Gray.

Mr. NEDZI. The Chairman intends to ask all of these individuals who have been involved to come here, in the CIA aspect of it, of the controversy, and have them appear before the subcommittee.

Mr. Bray.

Mr. BRAY. No questions.

Mr. NEDZI. General, how do these memoranda which you prepared in this particular instance differ from those others?

General WALTERS. Sir, I don't believe I prepared any others routinely.

Mr. NEDZI. You never prepare a memorandum for the record?

General WALTERS. Not since I have been Deputy Director, I don't believe, sir. Someone who is with me prepares them. I don't prepare them. My assistant, Mr. Wagner, prepares them sometimes, but I have not prepared any since I have been there.

Mr. NEDZI. You don't prepare any memoranda of conversations that you hold with others when your assistants are not present?

General WALTERS. Generally, no, sir, I do not. I have not.

Mr. NEDZI. Generally—do you ever?

General WALTERS. No, sir, I have not since I have been with the Agency.

Mr. NEDZI. Did you prepare a memorandum for the record before coming to the Agency?

General WALTERS. Yes, I used to, sir, at great length.

Mr. NEDZI. How did these memoranda differ from those?

General WALTERS. They are much shorter, sir. Generally—for instance when I used to translate for the President, I would write a long memorandum of conversation up to 10 pages long, but these were just brief notes, as I say, for my own reflecting.

I do not recall as of now any other memorandum of the conversation that I have prepared. I wouldn't be absolute about this, but I really can't recall any as of now.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. Thank you, Mr. Chairman.

General, for purposes of the record, could you go back to the meeting of the 23d of June with Mr. Ehrlichman and yourself and Director Helms and tell the committee what time it occurred, and how long it lasted.

General WALTERS. It occurred at, I believe, 1300. I would say it lasted at most 15 minutes.

Mr. SLATINSHEK. Could you tell the committee to the best of your knowledge and recollection who initiated the discussion and what was said, and who participated in the discussion?

General WALTERS. As I recall it, Mr. Haldeman did nearly all of the talking, and he said that this affair had taken place, that it caused a lot of noise. The Democrats would try to use it against the administration. The FBI would be called in.

As a matter of fact, I am reading from here, "and it had been decided I would go to Mr. Gray and tell him that if the investigation were pursued of the Mexican aspects of this question, it might uncover some of the CIA's channels or means of transmitting money to or from Mexico"—whether he said "assets" or not I am not absolutely sure.

Mr. Helms, as I remember it, then said, "But I told Gray we are not connected with this in any way. You know that there is no CIA involvement in this," and so forth.

As I remember it, Haldeman repeated—then I think Ehrlichman

said, "Well, you know if the CIA gets involved they will throw the Bay of Pigs at you." As I recall it, Mr. Helms said, "The Bay of Pigs has nothing to do with it."

Mr. SLATINSHEK. I am not sure I understand Mr. Ehrlichman making that observation. It would seem to me he would be, well, counseling against the action Mr. Helms had suggested.

General WALTERS. Mr. Helms may have testified on this. My recollection is not totally clear, but there was some reference to the Bay of Pigs that obviously irritated Mr. Helms. I can't remember the exact context in which it was made. I believe he may have testified on this.

Haldeman repeated, "It has been decided here that you will go to Patrick Gray," and so forth.

Mr. BRAY. You will do what?

General WALTERS. "It has been decided you will go to the Acting Director, Pat Gray, and tell him if the investigation on the Mexican aspect of this money is continued, it may uncover some methods or techniques of the CIA for moving money to and from Mexico."

Mr. SLATINSHEK. I gather then, the tone of the meeting was one of rather quiet protestation on the part of Mr. Helms, and you being a new member of the Agency, were required to carry this message to Mr. Gray as given you by Mr. Haldeman, is that essentially correct?

General WALTERS. That is essentially the way I recall it, and as I say, it is difficult to conceive of this environment that exists today at the time when this was made.

Mr. SLATINSHEK. What purpose was being served, in your judgment, by delivering this message to Mr. Gray?

General WALTERS. I presume that there might have been some White House knowledge of some channel which they used.

Mr. SLATINSHEK. No, no. What was the objective of delivering the message to Mr. Gray? I am not trying to put words in your mouth, but was it not obviously designed to cease this investigation of the Mexican problem?

General WALTERS. That was my impression, yes, sir.

Mr. SLATINSHEK. And have them desist.

General WALTERS. That was my impression.

Mr. SLATINSHEK. At this point in time, I can well imagine that you could conceivably not recognize or realize that there might be some wrongdoing involved, but subsequently, on June 26, you met with Mr. Dean at the White House.

General WALTERS. Yes.

Mr. SLATINSHEK. Your memorandum indicates the pressures that began building up on you from Mr. Dean in which he made some improper suggestions as far as your Agency's participation in this is concerned. You rejected all of these.

At this point in time was it not evident to you that something wrong had occurred, and that somebody in the administration was trying to protect someone?

General WALTERS. I think what occurred to me at this point, Mr. Slatinshek, was the impression that options were being explored to find a goat.

Mr. SLATINSHEK. Well, isn't it reasonable to assume that someone in a position of authority wouldn't be exploring these options to cover this up if it were not going to rebound adversely as far as these principals were concerned, or certainly someone who came under their aegis; is that correct?

General WALTERS. That is my impression, yes, sir, and that is what I told Mr. Gray.

Mr. SLATINSHEK. So therefore we must assume on the basis of the record, at this point you recognized there was some wrongdoing involved here?

General WALTERS. I would say again, sir, I recognized they were looking for an opportunity to find somebody, but that the deed had actually been done. No, as far as my participation was concerned, I rejected the suggestion. They were obviously looking for an out.

Mr. SLATINSHEK. That is right.

My point here, however, is that you were aware there was something afoot that was wrong?

General WALTERS. Yes, sir.

Mr. SLATINSHEK. You had rejected it because you didn't want the Agency involved in something illegal?

General WALTERS. Right.

Mr. SLATINSHEK. That is what it boils down to.

General WALTERS. More than illegal, something that would destroy the integrity of the Agency.

Mr. SLATINSHEK. Precisely.

The reason for the initial action, your approach to Mr. Gray initially, was to foreclose this investigation in Mexico?

General WALTERS. Yes, sir.

Mr. SLATINSHEK. You were subsequently exposed to Mr. Dean, and at this point you must have become aware of the fact there is something improper going on. Yet you made no effort to communicate with Mr. Gray in any way. You recognized that the investigation at this point had been halted. In your testimony too, you presume that since you had been in touch with Mr. Dean, that we would communicate this to Mr. Gray.

Obviously, in retrospect we find this is not so, but at this point, the record is a little difficult to follow. Would it not have been logical to go back to Mr. Gray and say "Look, we suggested unwisely that you halt your investigation. You should go forward, because otherwise we can be construed as being a party to obstructing justice"?

General WALTERS. In retrospect, undoubtedly I should have, sir. Again, I can recreate the environment. The idea this was going on in this way really boggled my mind. That Mr. Dean, the counsel to the President, the chief legal officer in the White House, would be involved in this was really something that was staggering.

Mr. SLATINSHEK. Subsequently then to July 5—

Mr. NEDZI. Something must have bothered you if you told him you would resign.

General WALTERS. It did, sir. I thought they were exploring an option I couldn't accept.

Mr. NEDZI. Was it so mind boggling? The thing should have been clear at that point. It must have been something you couldn't accept, and would look for some additional action, it seems to me.

General WALTERS. I reported to my superior, Mr. Helms, and I reported to the Director of the FBI.

Mr. SLATINSHEK. I would like to emphasize this for the record, and don't misconstrue my remark. You were the principal agent who delayed the investigation in this matter in Mexico, yet, being aware of this, and at this point in time, having an awareness of the implications, you had not taken the initiative to remove this stopper that you had placed on the investigation.

General WALTERS. I had not. And for believing that Dean would do it, I must bear responsibility for that question.

Mr. SLATINSHEK. On the 5th of July Mr. Patrick Gray called you and indicated that he could wait no longer, that the pressures were building up on him, he had to go forward, and unless you gave him a letter indicating officially the Agency was involved he would then go forward with it. And you asked him to wait until the following day.

General WALTERS. He said, "When can you see me?" I said, "Tomorrow morning."

Mr. Helms is extremely sensitive about this matter and I did not want to exceed my authority. I did wish to speak to him about it. This is at 5:30 in the evening. This is at 5:30 in the evening Mr. Gray called me. I went down there the first thing in the morning and told him.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. I think it wasn't quite clear, I was listening, when you said about the effort about the Bay of Pigs. Someone mentioned that.

Who was that conversation with?

General WALTERS. I believe that was Mr. Ehrlichman at the very first of all the conversations, sir. My recollection of it is not very clear. I have a feeling Mr. Helms has testified concerning it. It affected him somewhat more, as he had been with the Agency at the time.

Mr. BRAY. Were you with Mr. Helms at the time of the conversation?

General WALTERS. I was with Mr. Helms at the time of the conversation, yes, sir.

Mr. BRAY. What was it Helms said?

What was it Ehrlichman asked for?

General WALTERS. Ehrlichman didn't ask for anything, as I recall it, sir. He said something to the effect the CIA will get in trouble, and have another Bay of Pigs, or something like that. I do not recall the details of it.

Mr. BRAY. Why would he say that?

General WALTERS. I can't recollect, sir. I believe Mr. Helms has testified on this in detail. I was not with the Agency at the time of the Bay of Pigs, and I did not feel touched by this allusion, it didn't bother me at all. In fact I believe I had forgotten completely about it until Mr. Helms mentioned it in one of his testimonies, and so forth. I had forgotten Ehrlichman had taken any part in the conversation.

Mr. BRAY. That was one of the early conversations regarding the dangers of CIA involvement, if this matter was published?

General WALTERS. No, sir, this is the very first conversation of all. This was the very first conversation of all with Haldeman and Ehrlichman at which time they asked me to go and tell Mr. Gray to stay off the investigation as it might expose CIA assets then it would be another Bay of Pigs if the CIA assets were exposed in Mexico. I believe that was the connection.

Mr. BRAY. Do you recall that was what Ehrlichman was saying?

General WALTERS. As I recall it, that is what he was saying. I can't remember his exact statement. But I believe his allusion to that was if the CIA was exposed in Mexico it would be another Bay of Pigs.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman.

There are a few things for the record, General, that I think should be cleared up. Yesterday in the press Mr. Helms was quoted as referring to the 26th June meeting with Ehrlichman, Haldeman and yourself.

General WALTERS. Twenty-third.

Mr. HOGAN. Twenty-third June meeting with Ehrlichman, Haldeman and yourself. As saying in connection with the order that this came from, "higher authority."

Are you familiar with that quote?

General WALTERS. I saw it in the press also, Mr. Hogan.

Mr. HOGAN. Do you care to comment on it?

General WALTERS. The only conclusion you can call in a normal bureaucracy when you are talking to the No. 2 man, he is speaking on the authority from above.

Mr. HOGAN. You had the benefit of your memorandum when you wrote your affidavit, General, did you not?

General WALTERS. No, sir, I had turned them over to Mr. Buzhardt.

Mr. HOGAN. You had reviewed them?

General WALTERS. Yes, sir.

Mr. HOGAN. No other copy was available?

General WALTERS. No other copy was available. He had all the copies. I note I made a confusion between the day he asked me to go bail, and the other day. There was some confusion in my mind as to the sequence of these.

Mr. HOGAN. Let's read a couple of these off for the record so we can have it accurately.

Did the White House make the appointment as far as Mr. Gray was concerned for this first visit, or did you make it?

General WALTERS. I cannot remember, sir. I have a feeling it was made right from the office there. Whether I made it or whether one of Mr. Ehrlichman's secretaries made it, I cannot accurately remember.

Mr. HOGAN. Because we have a difference between the memorandum and your affidavit on that score.

General WALTERS. Yes. Which did I say, sir?

Mr. HOGAN. In one instance you said the White House, and in the other instance you said you made it when you got back—when you got out of the office, or words to that effect.

General WALTERS. I couldn't have gone back to the Agency, I didn't have time. I believe my meeting. I got out of there about 1:30, and I went to Mr. Gray at 2:30. I wouldn't have had time to go to the office. Either they made it or I made it from the office.

Mr. HOGAN. The wobbling comment, do you recall that?

General WALTERS. Yes, sir.

Mr. HOGAN. In your 26th memo you attribute it to that day, whereas in your affidavit you attribute it to the 27th meeting.

General WALTERS. Right, sir.

Mr. HOGAN. Is that what you just referred to?

General WALTERS. Yes, sir, that is what I referred to. If you look, I believe you will find I wrote the memorandum of conversation of both the 26th and 27th on the same date. When you have, and I notice from previous things, you know it is rather hard to keep the sequence of it. Which one is in which date, I am not absolutely sure. I do note one thing in my note of the appointment, I do note that alongside of the 26th I have "no Agency involvement" written in pencil. Alongside of the 27th I have "no funds."

The conclusion I draw from that is that the "pitch" for the bail was made on the 27th.

Mr. HOGAN. On the 27th?

General WALTERS. Yes, sir.

Mr. HOGAN. Likewise, in that 26th memo, you said nothing about firing people, whereas you did in your affidavit.

General WALTERS. I did, sir, and I did say it to him, and I would be prepared to answer this under a lie detector test.

Mr. HOGAN. Likewise, relative to the 27th of June memo, the Dean memo, you never mentioned resignation, but you did in your affidavit?

General WALTERS. Again I would be prepared to answer this under a lie detector, if it would satisfy the committee as to my candor.

Mr. HOGAN. The same as going to the President?

General WALTERS. Yes, sir. You see I covered a number of those in my memorandum in the talk to Gray. I repeated what I told Dean to Gray. If you look at the memorandum of where I talked to Gray, I told him what I told Dean.

Mr. NEDZI. You didn't state you told Dean that.

General WALTERS. I may not have written it in the memorandum, but I did tell him, sir.

Mr. HOGAN. There was a third aspect, General, in your memorandum you never mentioned this congressional oversight business with regard to the funds.

General WALTERS. No, sir, but I remember Mr. Helms telling me that. When I mentioned that Helms said: "That is right; you couldn't. We have to go, we take money out of the reserve, we have to go to the Oversight Committee."

Mr. HOGAN. Is it a fact, then, you did mention it to him or it was just a conversation between you and Mr. Helms?

General WALTERS. I mentioned it to him, there is no question, and it turned him off completely.

Mr. HOGAN. In each instance with your meetings with Dean, how were they arranged?

General WALTERS. In each instance he called me and told me to come down.

Mr. HOGAN. Now in connection with the three-way approach that was attributed to the FBI as to who was to be blamed for this, did you ever discuss with Mr. Gray the question that the FBI possibly was considering blaming the CIA for this whole caper?

General WALTERS. No, sir.

Mr. HOGAN. Did it ever enter your mind?

General WALTERS. No, sir, it did not. I thought the FBI knew better than that. It did not enter my mind. At the very beginning they may have, sir, until I went down and gave Mr. Gray assurances.

First of all, when he got this first message from me, obviously he must have thought there was some peripheral CIA involvement, and I am sure suspicion lingered in his mind until I specifically told him. Here again I recognize I should have gone on down on the Monday after I checked out, after I had seen Dean, I should have gone back to Gray, I recognize that.

Mr. HOGAN. I have one more question, Mr. Chairman.

I would like to followup on Mr. Slatinshek's questioning as to what was going through your mind, General.

No. 1, when you knew the Watergate happened—you knew it happened, didn't you?

General WALTERS. I read it in the newspaper.

Mr. HOGAN. And of the names of certain people involved, and that you were approached to try to stop something. That is the Mexican event.

General WALTERS. Yes, sir.

Mr. HOGAN. Particularly now you are asked to provide these five with bail money, with what amounts to subsistence over a period of time?

General WALTERS. Yes.

Mr. HOGAN. At that point, did you associate the White House with trying to cover up the Watergate affair?

General WALTERS. I would say that it was clear to me they were looking around to somebody to blame it on; yes, sir.

Mr. HOGAN. Did you have any other thoughts about who might be responsible from your conversations with them?

General WALTERS. My only conversations were, other than the initial conversation, was with Mr. Dean. I did not discuss this with anybody else in the White House.

Mr. HOGAN. How about Mr. Gray?

General WALTERS. I discussed it with Mr. Gray.

Mr. HOGAN. Did that lead you to the White House in connection with the event?

General WALTERS. It led me to believe that Mr. Dean was exploring blaming this on somebody.

Mr. HOGAN. Rather than who?

General WALTERS. I did not know, sir. He never admitted to me at any time he or the Committee for the Re-Election of the President—

Mr. HOGAN. Any speculation rather than who?

General WALTERS. Obviously I speculated it was someone.

Mr. HOGAN. In the White House?

General WALTERS. Maybe they worked on to do it. Obviously this thought occurred to me. I couldn't tell you it didn't. It did occur to me.

Mr. HOGAN. The thought it was somebody involved with the White House?

General WALTERS. Yes.

Mr. HOGAN. No further questions.

Mr. NEDZI. General, to get back to your statement, you concluded the President didn't know about this?

General WALTERS. That is a personal belief, sir.

Mr. NEDZI. When you discussed the matter with Dean—did you regard what Dean was doing as serious?

General WALTERS. I thought it was; yes, sir. What he was attempting to do.

Mr. NEDZI. You realize what he was attempting to do was a crime?

General WALTERS. I don't believe I did, sir. I should have, but I don't believe I did at the time.

Mr. NEDZI. Do you believe it is a crime?

General WALTERS. I do, it is an obstruction of justice.

Mr. NEDZI. That being the case, why didn't you tell the President?

General WALTERS. I had no access to the President, sir. I have never had an interview with the President from the day I became Deputy Director until today. I had no access to the President. My access to the President would be through Ehrlichman and Haldeman, they told me he was too busy.

Mr. HÉBERT. That was no access.

General WALTERS. Sir?

Mr. NEDZI. Did you tell Haldeman and Ehrlichman?

General WALTERS. I did not tell them.

Mr. NEDZI. This is an issue of such enormity, don't you think you should have?

General WALTERS. I think if they had pushed me any further I would have. I again recreate the atmosphere. I was so relieved to be out from under that pressure, my thought was, we in the Agency are out of this. That was my human reaction. Maybe it isn't the legal reaction or the right reaction, but it is the human reaction. The pressure is off us. I reported it to Mr. Helms. I reported it to Mr. Gray. I am a member of the executive branch. For me to run to the Attorney General or the Congress, in the reality of Washington life, this doesn't happen.

Mr. NEDZI. That kind of feeling, that relief, that tremendous pressure, was nowhere reflected in your memoranda at the time this occurred?

General WALTERS. Sir. I tried to explain to you, my memorandum did not purport to recreate the whole atmosphere.

Mr. NEDZI. The atmosphere was one of tremendous pressure?

General WALTERS. Yes, it was.

Mr. NEDZI. It was being involved in a conspiracy of some sort?

General WALTERS. It was not of being involved, but being pressured to join the conspiracy.

Mr. NEDZI. You were involved in the conspiracy when you went to Gray with the information?

General WALTERS. Sir, I had no way of knowing that was not true.

Mr. NEDZI. But you were involved in it?

General WALTERS. I did not have the feeling of being involved, sir. I was told by people who have as much knowledge as anybody in the U.S. Government, if you do this this would jeopardize the Government. What was I to believe? They were lying to me the first time this thing came up.

Mr. NEDZI. I believe you did believe they were lying to you.

General WALTERS. I am sorry, sir, I did not believe they were lying.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. In connection with what you were mentioning, Mr. Chairman, why didn't you go to the President? Didn't you tell Mr. Gray if this kept up you were going to go to the President?

General WALTERS. If I was to do something that I regarded as wrong, I would go to the President.

Mr. HOGAN. How would you get access, General?

General WALTERS. I didn't know how I was going to get access, but I would get access. Involving me or somebody else, perhaps I should have done something in an abstract and hindsight way. But at the time when the pressure on me to do something wrong ceased, I thought maybe they had given up this option.

They did not pursue the issue further with me.

Mr. NEDZI. Yet you suggested that maybe the Cuban option was involved?

General WALTERS. Sir, I believe maybe that has been misunderstood. He was pushing me for some possibility of who could have done this, how this had happened. He never at any time admitted he was involved in it. I couldn't tell him he was a crook and involved in it.

Mr. NEDZI. Why not?

General WALTERS. He is the counsel to the President.

Mr. NEDZI. When you get such fantastic requests at that point, why not?

General WALTERS. You are probably right in hindsight, Mr. Chairman. At the present time it seemed to me if I can keep the pressure off of this, I can keep the Agency out of this, which was my principal concern.

Mr. NEDZI. Do you think you would have blown up and involved the Agency to a greater degree if you really stood up and told him this was wrong instead of suggesting that the Cubans might have done it?

General WALTERS. Sir, I think in my opinion, as I reconstruct my thinking and leading back to it, and I can't be exact about this, if I had gone and tried to say the White House is plotting against the CIA, this would have stirred up a storm that would have been detrimental to the CIA.

Mr. NEDZI. It is better the way it is today?

General WALTERS. No, sir, it is not, but I could not see how it would work out. The CIA was already under some fire at this time. If I as the Deputy Director of CIA had gone and accused one of the President's principal advisers of illegal activities to involve the CIA, it would have stirred up, as I viewed it then, an enormous storm, much less in fact than the one that actually burst.

Mr. NEDZI. You could have said that to the Presidential adviser to whom you were talking, but your memorandum doesn't disclose that?

General WALTERS. Sir, I said I would be glad to answer under a lie detector as to whether I did this or not.

Mr. SLATINSHEK. General, for purposes of the record, your memorandum dated July 6, 1972, which I have identified as memorandum No. 8 for purposes of the committee records, is concerned with your conversations with Director Patrick Gray of the FBI.

And I quote the first portion of the first sentence, the first portion of a paragraph on the second page: "Gray thanked me for my frankness and said that this opened the way for fruitful cooperation between us."

This is with reference to the fact that you had indicated no objection to their pursuing—

General WALTERS. May I explain that, sir?

Mr. SLATINSHEK. Yes.

General WALTERS. When I came to the CIA I found relations between the CIA and the FBI were not nearly as good as they should have been. And I spoke to a number of people of my efforts now that there was a new Director in the FBI, and that I was the new Deputy Director, to try and see if we couldn't work more closely than had been the case in the past. This is what I was referring to here.

Mr. SLATINSHEK. The next sentence, and I quote:

He would be frank with me, too. He would not suppress this investigation within the FBI. He had told Kleindienst this. He had told Ehrlichman and Haldeman that he would prefer to resign, but his resignation would raise many questions that would be detrimental to the President's interest. He did not see why he or I should jeopardize the integrity of our organization to protect some middle-level White House figure who had acted imprudently.

Did he elaborate on his reference to Kleindienst? What is suggested in this particular paragraph, at least my reading of it, is that Mr. Kleindienst was approached or had discussed this matter with Mr. Gray, and Mr. Gray had told him that he could not suppress the investigation, which suggests inferentially Mr. Kleindienst had suggested to Mr. Gray that he might do it. Is that what you meant by that?

General WALTERS. No, sir, I don't think I did. I was simply reporting my recollection of what Mr. Gray said.

Mr. SLATINSHEK. You have no idea of what he meant by this?

General WALTERS. No, sir, I did not, except Kleindienst is his boss, the Attorney General.

And he went on to say, he told Ehrlichman and Haldeman he would prefer to resign.

Mr. SLATINSHEK. But at this point in time your memorandum clearly indicates Gray's opinion, and apparently one shared by you, was that some White House figures had acted imprudently?

General WALTERS. Yes, sir, I so testified, I believe, the very first time I testified before the Senate Armed Services Committee. They asked me the same thought. It was obvious there was desperation; they were looking around for somebody to pin this on. This was the impression I had arrived at.

Mr. SLATINSHEK. In your memorandum for the record—and just to keep our records correct, July 6 memorandum concerning your conversation with Mr. Gray—you mentioned a memorandum which is attached. Could you make available that memorandum?

General WALTERS. If we have not, I certainly will, sir. I believe this is the stuff that was furnished Hunt.

Mr. SLATINSHEK. I believe it is in the record earlier, but we have to make certain we have it.

General WALTERS. Right, sir. I am pretty sure, because then the next meeting I had with him, I gave him an additional item to that memorandum of some other things we had given to Mr. Hunt that had not appeared previously.

Mr. NEDZI. General Walters, is there anything in these memorandums that is not factual?

General WALTERS. I don't believe there is any matter of substance which is not factual, sir, that I know of. There may have been some error on my part in something or other, but I know of no fundamental error. There is the presentation of certain things, like the Cuban things, and there is the original thing I said about it is the President's wish. I believe those are the only two notes that struck me when I sent this down with the covering note.

Mr. NEDZI. Is there anything of substance that was told to the grand jury which you have not told to this subcommittee?

General WALTERS. I have not been before the grand jury. I have only seen the prosecutor, Mr. Silbert, and his staff. I cannot think of anything.

Mr. NEDZI. Is there anything of substance we have not been told involving this matter?

General WALTERS. Not that I remember, sir.

Mr. NEDZI. There are no other documents?

General WALTERS. No other documents.

Mr. NEDZI. Or memorandums?

General WALTERS. No, sir.

Mr. HÉBERT. You mean that you know of?

General WALTERS. That I know of, yes, sir. Not written by me, certainly. These are the only memorandums I have written.

Mr. HÉBERT. You can't speak for the whole Agency?

General WALTERS. No, sir. I believe the Agency has submitted all the memorandums it has on this subject.

Mr. NEDZI. Are there any further questions?

If there are no further questions, the committee will stand recessed until further call of the Chair.

We thank you very much, General, for coming before us.

General WALTERS. Thank you, Mr. Chairman.

[Whereupon, at 4:32 p.m., the subcommittee adjourned subject to the call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Thursday, May 24, 1973.

The subcommittee met, pursuant to adjournment, at 10:17 a.m. in room 2216, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order.

We are continuing our inquiry into the CIA involvement in the entire Watergate matter. This morning we have, as our first witness, Mrs. Nancy Lewis.

Mrs. Lewis, would you please stand up and take this oath?

Do you swear the testimony you are about to give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

**TESTIMONY OF MRS. NANCY C. LEWIS, SECRETARY TO DEPUTY
DIRECTOR OF CENTRAL INTELLIGENCE**

Mrs. LEWIS. I do.

Mr. NEDZI. Please state your full name for the record.

Mrs. LEWIS. Mrs. Nancy C. Lewis.

Mr. NEDZI. Where do you live, Mrs. Lewis?

Mrs. LEWIS. In Falls Church, Va.

Mr. NEDZI. What is your present employment?

Mrs. LEWIS. I am presently employed at the Central Intelligence Agency.

Mr. NEDZI. In what capacity?

Mrs. LEWIS. As secretary to General Walters, the Deputy Director.

Mr. NEDZI. How long have you served in that capacity?

Mrs. LEWIS. Since General Walters has been the Deputy Director of the Agency, I have worked for him there.

Mr. NEDZI. Did you work at the Agency before he became Deputy?

Mrs. LEWIS. No, sir. I worked for General Walters in Paris when he was Defense Attaché—from 1967 until the present time.

Mr. NEDZI. Until May?

Mrs. LEWIS. Until last year, and I continued to work for him at the Central Intelligence Agency.

Mr. NEDZI. Do you recall the date on which you became employed by the Agency?

Mrs. LEWIS. I believe it was April 16, 1972.

Mr. NEDZI. Mrs. Lewis, do you remember in June 1972 having certain memorandums dictated to you by General Walters?

Mrs. LEWIS. Sir, he dictated one memorandum in July, and the rest of them he wrote out in longhand and I typed them.

Mr. NEDZI. Do you have any notes which you made at that time, either of the dictation or other notes?

Mrs. LEWIS. The memorandums that he wrote out, I destroyed the draft after I had typed the memorandums.

I have the notes of the July 6 memorandum which he dictated.

Mr. NEDZI. Was there any other memorandum which he had dictated to you?

Mrs. LEWIS. No, sir. He has dictated various things, personal letters, but no other memorandums.

Mr. NEDZI. Nothing pertaining to the Watergate matter that you are aware of?

Mrs. LEWIS. No; no, sir.

Mr. NEDZI. Do you have your notes of July 6 with you?

Mrs. LEWIS. No; I do not have them with me.

Mr. NEDZI. Were you not asked to bring those notes with you?

Mrs. LEWIS. No, sir, I was not.

Mr. NEDZI. Do you recall what is in those notes?

Mrs. LEWIS. The text of the memorandum dated July 6. I looked at the notes this morning to verify that I did have them or did not.

I do have them, only one set of notes of the text of the July 6 memorandum.

Mr. NEDZI. Did you compare those notes with the memorandum which was submitted to the committee?

Mrs. LEWIS. I did not compare them. I read them, and was satisfied they were in fact the notes of that particular memorandum.

Mr. NEDZI. You didn't go over it word by word, sentence by sentence, comparing the notes with the memorandum?

Mrs. LEWIS. No, sir, I did not.

Mr. NEDZI. Do you know whether there were any changes made in the memorandum which the committee has after you typed them from the original draft—the original dictation?

Mrs. LEWIS. I don't know offhand. If there were changes made, they were made immediately after I typed them. They were not changed after the memorandum was finally typed.

Mr. NEDZI. Would you explain that answer again, please?

Mrs. LEWIS. Well, for instance, if there was something to be changed on the memorandum, General Walters would have indicated at the time that I typed it, the change to be made. And I don't remember if there were any changes made.

Mr. NEDZI. What happened to the memorandum after you returned them to General Walters? Did you return them to General Walters?

Mrs. LEWIS. Yes, sir, I typed them and handed them to General Walters.

He read them and initialed it or signed it as the case may be, and I believe he showed them to Mr. Helms, and then he returned them to me, and I put them in his files, in the safe, in our office.

Mr. NEDZI. He initialed them at the time you typed them?

Mrs. LEWIS. Yes, sir.

Mr. NEDZI. Do you recall how long the time lapse was between the time you typed the memorandum and gave them to General Walters, and the time they were returned to you for filing?

Mrs. LEWIS. It was done immediately, as soon as he dictated or gave me the text of the memorandum, I typed them, and immediately gave them back to him, and he read them, I believe he showed them to Mr.

Helms immediately, and then returned them to me, and I put them in the safe.

Mr. NEDZI. This would be the same thing in each instance?

Mrs. LEWIS. Yes, sir.

Mr. NEDZI. Mr. Price, do you have any questions?

Mr. MELVIN PRICE. No, Mr. Chairman.

Mr. NEDZI. Frank, do you have any questions?

Mr. SLATINSHEK. Can you tell the committee what the routine handling of the memorandum for record is, as between you and General Walters? Each of us have our own habits in handling these things. I dictate my own memorandums for the record, and when I get them I look at them and I initial them, and then ask the young lady to file them.

Is that essentially the manner in which General Walters handles a memorandum for the record?

In other words, when you submit the material to him, does he approve, and then indicate his approval with some sort of initialing at the time?

Mrs. LEWIS. Yes, sir, I type the format of the memorandum. He did not indicate to me that this was going to be a memorandum for record. It is a pretty general Government format, and I put it up that way. I didn't know what he would do with it, and he did return it to me for the file. I handed it to him as soon as I typed it, and he initialed it or signed it in some of the cases, and I then filed them. He indicated that they were not to be sent anywhere, that he would just maintain them in his files.

Mr. SLATINSHEK. You had indicated memorandum for record. Is that sort of a practice of yours in doing this for General Walters?

Mrs. LEWIS. Yes.

Mr. SLATINSHEK. But normally he would, in one form or another, approve the action—the typed material then by initialing or signing it?

Mrs. LEWIS. Yes, sir, I always give the memorandum, or whatever I typed, back to him to sign, or approve, or agree in fact that that is what he dictated or wrote.

Mr. SLATINSHEK. It would be helpful to the committee if you could tell us to the best of your recollection what happened to any of these memorandums. Were they all handled the same way? You typed them up, submitted them to him, he initialed them. What happened, did he return them to you for filing or did he utilize them personally and then return them to you for filing? Would you explain your order?

Mrs. LEWIS. I typed the memorandums. I handed them to General Walters. He read them, initialed them or signed them. He showed them to Mr. Helms as far as I know. I wasn't present when he did this, but he then returned them to me, and I filed them.

Mr. SLATINSHEK. In his personal safe?

Mrs. LEWIS. In his safe, yes.

Mr. NEDZI. In what kind of file did you file these memorandums? What was the heading of the file?

Mrs. LEWIS. I put them in an envelope and I didn't put any heading on the file.

Mr. NEDZI. Did you keep an alphabetical file in the files?

Mrs. LEWIS. Yes, sir, I do. But I did not put them in an alphabetical file.

Mr. NEDZI. These were filed separately?

Mrs. LEWIS. Yes.

Mr. NEDZI. With what other kind of papers?

Mrs. LEWIS. With other papers that he has written up. I can't generalize.

Mr. HOGAN. Mrs. Lewis, did you make any carbon copies of these memorandums?

Mrs. LEWIS. I made an original and one copy.

Mr. HOGAN. Where are the carbon copies now?

Mrs. LEWIS. I don't know, sir.

Mr. HOGAN. Do you have them in-file out there?

Mrs. LEWIS. No; I don't know. I have a Xeroxed copy in my file.

Mr. HOGAN. You have a Xeroxed copy in your file?

Mrs. LEWIS. Yes.

Mr. HOGAN. Now, you don't have those Xeroxed copies with you, do you?

Mrs. LEWIS. No, sir.

Mr. HOGAN. If I should show you these memorandums would you recognize them as being the ones you typed?

Mrs. LEWIS. Yes, sir.

Mr. HOGAN. Like the Xeroxed copies you have in your file? [Displaying document.] They are numbered. If you could just indicate if those are the ones.

Mrs. LEWIS. These are the ones I typed.

Mr. HOGAN. Those are numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 12. There is an 11 that was not included, since it wasn't General Walters'.

So you agree those are the memorandums you typed?

Mrs. LEWIS. Yes, I do.

Mr. HOGAN. Are those the exact duplicates of the Xeroxed copies that you have in your files?

Mrs. LEWIS. Yes, sir, they are.

Mr. HOGAN. For the record, Mr. Chairman, I wonder if we could ask for copies of the Xeroxed copies that are in Mrs. Lewis' file, because we have an initial problem here, you recall.

Mr. NEDZI. Would you furnish us with those?

Mrs. LEWIS. Yes, sir.

Mr. HOGAN. Thank you, Mr. Chairman.

[The following information was received for the record:]

STATEMENT

Forwarded herewith is a copy of the xerox copies of memoranda referenced in my testimony of 24 May 1973.

I typed these memoranda in an original and one carbon copy. Although I did not make the copies from which the copies submitted herewith have been reproduced, it appears to me that copies were xeroxed from the originals bearing General Walters' initial or signature as well as from the carbon copies which do not bear his initial or signature.

NANCY C. LEWIS.

JUNE 28, 1972.

Memorandum for record W

On June 23 at 1300 on request I called with Director Helms on John Ehrlichman and Robert Haldeman in Ehrlichman's office at the White House.

Haldeman said that the "bugging" affair at the Democratic National Committee Hqs at the Watergate Apartments had made a lot of noise and the Democrats were trying to maximize. The FBI had been called in and was investigating the matter. The investigation was leading to a lot of important people and this could get worse. He asked what the connection with the Agency was and the Director repeated that there was none. Haldeman said that the whole affair was getting embarrassing and it was the President's wish that Walters call on Acting FBI Director Patrick Gray and suggest to him that since the five suspects had been arrested that this should be sufficient and that it was not advantageous to have the enquiry pushed, especially in Mexico, etc.

Director Helms said that he had talked to Gray on the previous day and had made plain to him that the Agency was not behind this matter, that it was not connected with it and none of the suspects was working for, nor had worked for the Agency in the last two years. He had told Gray that none of his investigations was touching any covert projects of the Agency, current or ongoing.

Haldeman then stated that I could tell Gray that I had talked to the White House and suggest that the investigation not be pushed further. Gray would be receptive as he was looking for guidance in the matter.

The Director repeated that the Agency was unconnected with the matter. I then agreed to talk to Gray as directed. Ehrlichman implied I could do this soon and I said I would try to do it today.

Upon leaving the White House I discussed the matter briefly with the Director. On returning to the office I called Gray, indicated that this was a matter of some urgency, and he agreed to see me at 1430 that day.

VERNON A. WALTERS,
Lieutenant General, USA.

JUNE 28, 1972.

Memorandum for record W

At 1430 on 23 June I called on the Acting Director of the FBI, L. Patrick Gray, at his office in the FBI Building and saw him alone.

I said that I had come to see him after talking to the "White House". I cited no names and he asked for none. I added that I was aware of the Director's conversation with him the previous day and while the further investigation of the Watergate Affair had not touched any current or ongoing covert projects of the Agency, its continuation might lead to some projects. I recalled that the FBI and the Agency had an agreement in this respect and that the Bureau had always scrupulously respected this. Gray said he was aware of this and understood what I was conveying to him. His problem was how to low key this matter now that it was launched. He said that a lot of money was apparently involved and there was a matter of a check on a Mexican bank for 89 thousand dollars. He asked if the name Dahlberg meant anything to me and I said it did not but that that was not really significant as I had only been with the Agency for a few months.

Gray then said that this was a most awkward matter to come up during an election year and he would see what he could do. I repeated that if the investigations were pushed "south of the border" it could trespass upon some of our covert projects and, in view of the fact that the five men involved were under arrest, it would be best to taper the matter off there. He replied that he understood and would have to study the matter to see how it could best be done. He would have to talk to John Dean about it.

Gray said he looked forward to cooperation closely with the Agency. After some pleasantries about J. Edgar Hoover and our past military careers, I left saying that my job had been an awkward one but he had been helpful and I was grateful.

VERNON A. WALTERS,
Lieutenant General, USA.

JUNE 28, 1972.

Memorandum for record W

On 26 June at about 10:00 a.m. I received a phone call from Mr. John Dean at the White House. He said he wished to see me about the matter that John Ehrlichman and Bob Haldeman had discussed with me on the 23rd of June. I could check this out with them if I wished. I agreed to call on him in his office in Room 106 at the Executive Office Building at 1145 that morning. Immedi-

ately after hanging up, I called Ehrlichman to find out if this was all right and after some difficulty I reached him and he said I could talk freely to Dean.

At 1145 I called at Dean's office and saw him alone. He said that the investigation of the Watergate "bugging" case was extremely awkward, there were lots of leads to important people and that the FBI which was investigating the matter was working on three theories:

1. It was organized by the Republican National Committee.
2. It was organized by the CIA.
3. It was organized by some other party.

I said that I had discussed this with Director Helms and I was quite sure that the Agency was not in any way involved as I knew that the Director wished to distance himself and the Agency from the matter. Dean then asked whether I was sure that the Agency was not involved. [Deleted.] I said that I was sure that none of the suspects had been on the Agency payroll for the last two years.

Dean then said that some of the accused were getting scared and "wobbling." I said that even so they could not implicate the Agency. Dean then asked whether there was not some way that the Agency could pay bail for them (they had been unable to raise bail). He added that it was not just bail, that if these men went to prison, could we (CIA) find some way to pay their salaries while they were in jail out of covert action funds.

I said that I must be quite clear. I was the Deputy Director and as such had only authority specifically delegated to me by the Director and was not in the chain of command but that the great strength of the Agency and its value to the President of the nation lay in the fact that it was apolitical and had never gotten itself involved in political disputes. Despite the fact that I had only been with the Agency a short time, I knew that the Director felt strongly about this.

I then said that big as the troubles might be with the Watergate Affair, if the Agency were to provide bail and pay salaries, this would become known sooner or later in the current "leaking" atmosphere of Washington and at that point the scandal would be ten times greater as such action could only be done upon direction at the "highest level" and that those who were not touched by the matter now would certainly be so.

Dean seemed at first taken aback and then very much impressed by this argument and said that it was certainly a very great risk that would have to be weighed. I repeated that the present affair would be small potatoes compared to what would happen if we did what we wanted and it leaked. He nodded gravely.

I said that, in addition, the Agency would be completely discredited with the public and the Congress and would lose all value to the President and the Administration. Again he nodded gravely.

He then asked if I could think of any way we (CIA) could help. I said I could not think of any but I would discuss the matter with the Director and would be in touch with him. However, I felt that I was fully cognizant of the Director's feelings in this matter. He thanked me and I left.

VERNON A. WALTERS,
Lieutenant General, USA.

JUNE 29, 1972.

Memorandum for record W

At 11:45 on June 27, 1972, I saw John Dean at his office in the Executive Office Building.

I told him that I had spoken to Director Helms and found that what I had said to Dean the previous day did indeed reflect Helms' views accurately. That he felt any involvement of the Agency would be most counter productive and furthermore, we had a legislative constraint about the expenditure of our funds within the United States. We had to clear them with the Chairmen of the CIA Oversight Committees in both House and Senate. This visibly lessened his enthusiasm.

I then repeated my arguments that this caper while presently seeming very large would be overtaken by other spicier developments. Unfortunate though its consequences might be currently, Agency involvement by direction at the highest level would undoubtedly become known sooner or later and would then reach to people who were still uninvolved. He nodded. I said that my mind boggled that such risks as those involved in this caper would have been taken for such an unrenumerative target. Involving the Agency would transform what was now a medium-sized conventional explosive into a multi-megaton explosion and simply was not worth the risk to all concerned.

Dean thanked me looking glum and said he agreed with my judgment in all of these matters.

VERNON A. WALTERS,
Lieutenant General, USA.

JUNE 29, 1972.

Memorandum for record W

On June 28, at 11:30 John Dean asked me to see him at his office in the Executive Office Building. I saw him alone.

He said that the Director's meeting with Patrick Gray, FBI Director, was cancelled and that John Ehrlichman had suggested that Gray deal with me instead.

The problem was how to stop the FBI investigation beyond the five suspects. Leads led to two other people—Ken Dahlberg and a Mexican named Guena. Dean said that the \$89,000 was unrelated to the bugging case and Dahlberg was refusing to answer questions. Dean then asked hopefully whether I could do anything or had any suggestions.

I repeated that as Deputy Director, I had no independent authority. I was not in the channel of command and had no authority other than that given me by the Director. The idea that I could act independently was a delusion and had no basis in fact.

Dean then asked what might be done and I said that I realized he had a tough problem, but if there were Agency involvement, it could be only at President directive and the political risks that were concomitant appeared to me to be unacceptable. At present there was a high explosive bomb but intervention such as he had suggested would transform it into a megaton hydrogen bomb. The present caper was awkward and unpleasant. Directed intervention by the Agency could be electorally mortal if it became known and the chances of keeping it secret until the election were almost nil. I noted that scandals had a short life in Washington and other newer spicier ones soon replaced them. I urged him not to become unduly agitated by this one.

He then asked if I had any ideas and I said that this affair already had a strong Cuban flavor and everyone knew the Cubans were conspiratorial and anxious to know what the policies of both parties would be towards Castro. They, therefore, had a plausible motive for attempting this amateurish job which any skilled technician would deplore. This might be costly but it would be plausible.

Dean said he agreed that this was the best tack to take but it might cost half a million dollars. He also agreed (for the second time) that the risks of agency involvement were unacceptable. After a moment's thought he said that he felt that Gray's cancellation of his appointment with Director Helms might well be reversed in the next few hours.

Dean thanked me and I left.

VERNON A. WALTERS,
Lieutenant General, USA.

JULY 5, 1972.

Memorandum for record.

On July 5, 1972, at 5:50 p.m. I received a phone call from the Acting Director of the FBI, L. Patrick Gray. He said that the pressures on him to continue the investigation were great and unless he had a document from me to the effect that their (FBI) investigation was endangering National Security, he would have to go ahead with the investigation of Dahlberg and Daguerre. He had talked to John Dean. I said I could not give him an immediate answer but would get one to him by 10:00 on July 6. He said that that would be agreeable.

VERNON A. WALTERS,
Lieutenant General, USA.

JULY 6, 1972.

Memorandum for record.

At 1005 on 6 July I saw Acting FBI Director L. Patrick Gray at his office. We were alone during our conversation. I handed him the Memorandum which is attached and said that it covered the entire relationship between the Watergate suspects and the Agency. In all honesty I could not tell him to cease future investigations on the grounds that it would compromise the security interests of the U.S.

Even less so could I write him a letter to this effect. He said that he fully understood this. He himself had told Ehrlichman and Haldeman that he could not possibly suppress the investigation of this matter. Even within the FBI there were leaks. He had called in the components of his Field Office in Washington and "chewed them out" on this case because information had leaked into the press concerning the Watergate Case which only they had.

I said that the only basis on which he and I could deal was absolute frankness and I wished to recount my involvement in this case. I said that I had been called to the White House with Director Helms and had seen two senior staff assistants. (I specifically did *not* name Haldeman and Ehrlichman.) I said that we had been told that if this case were investigated further, it would lead to some awkward places, and I had been directed (the implication being that the President had directed this although it was not specifically stated) to go to Acting Director Gray and tell him that if this investigation were pursued further, it could uncover some ongoing covert operations of the Agency. I had done this. Subsequently, I had seen Mr. Dean, the White House Counsel, and told him that whatever the current unpleasant implications of the Watergate Case were that to implicate the Agency would not serve the President but would enormously increase the risk to the President. I had a long association with the President and was as desirous as anyone of protecting him. I did not believe that a letter from the Agency asking the FBI to lay off this investigation on the spurious grounds that it would uncover covert operations would serve the President. Such a letter in the current atmosphere of Washington would become known prior to election day and what was now a minor wound could become a mortal wound. I said quite frankly that I would write such a letter only on direction from the President and only after explaining to him how dangerous I thought such an action would be to him and then, if I was really pushed on this matter, I would be prepared to resign.

Gray thanked me for my frankness and said that this opened the way for fruitful cooperation between us. He would be frank with me too. He could not suppress this investigation within the FBI. He had told Kleindienst this. He had told Ehrlichman and Haldeman that he would prefer to resign, but his resignation would raise many questions that would be detrimental to the President's interests. He did not see why he or I should jeopardize the integrity of our organizations to protect some middle-level White House figure who had acted imprudently. He was prepared to let this go to Ehrlichman, to Haldeman, or to Mitchell for that matter. He felt it important that the President should be protected from his would-be protectors. He had explained this to Dean as well as to Haldeman and Ehrlichman. He said he was anxious not to talk to Mitchell because he was afraid that at his confirmation hearings he would be asked whether he had talked to Mitchell about the Watergate Case and he wished to be in a position to reply negatively. He said he would like to talk to the President about it but he feared that a request from him to see the President would be misinterpreted by the media. I said that if I were directed to write a letter to him saying that future investigation of this case would jeopardize the security of the U.S. and covert operations of the Agency, I would ask to see the President and explain to him the disservice I thought this would do to his interests. The potential danger to the President of such a course far outweighed any protective aspects it might have for other figures in the White House and I was quite prepared to resign myself on this issue. Gray said he understood this fully and hoped I would stick to my guns. I assured him I would.

Gray then said that though this was an awkward question, our mutual frankness had created a basis for a new and happy relationship between our two Agencies. I said the Memorandum I had given him described in detail the exact measure of Agency involvement or non-involvement in this case, including information on Dahlberg and Daguerre.

He thanked me again for my frankness and confidence and repeated that he did not believe that he could sit on this matter and that the facts would come out eventually. He walked me to the door.

VERNON A. WALTERS,
Lieutenant General, USA.

JULY 13, 1972.

Memorandum for record.

On 12 July at 1415 I called on Acting FBI Director L. Patrick Gray at his office and saw him alone.

I told him that shortly after I had seen him the last time and given him the

memorandum concerning former CIA association of the suspects in the Watergate Case, I had since discovered one additional item concerning Howard Hunt. I gave him the memorandum concerning the assistance given to Hunt which terminated in August 1971 when his demands escalated to an inappropriate level. We had assisted him following a request from the White House and it was our understanding that it was for the purpose of tracking down security leaks in the Government.

He thanked me and said that this case could not be snuffed out and it would lead quite high politically. Dahlberg was in the clear. He had gotten the check from Maurice Stans and had deposited it in the Mexican bank. It was undoubtedly political money. Last Friday, the President had called him to congratulate him on the FBI action which had frustrated the airplane hijacking in San Francisco. Towards the end of the conversation the President asked him if he had talked to me about the case. Gray replied that he had. The President then asked him what his recommendation was in this case. Gray had replied that the case could not be covered up and it would lead quite high and he felt that the President should get rid of the people that were involved. Any attempt to involve the FBI or the CIA in this case could only prove a mortal wound (He used my words.) and would achieve nothing. The President then said, "Then, I should get rid of whoever is involved no matter how high?" Gray replied that that was his recommendation. The President then asked what I thought and Gray said that my views were the same as his. The President took it well and thanked Gray. Later that day Gray had talked to Dean and repeated the conversation to him. Dean had said, "Okay." Gray had heard no more on the subject. He asked whether the President had spoken to me and I said he had on another matter but had not brought up this matter with me.

Gray then said that the U.S. Attorney had subpoenaed the financial records of the Committee to Re-elect the President. It had been suggested to him that he stop this. He had replied that he could not. Whoever wanted this done should talk to the Attorney General to see if there was any legal way to do this. He could not. He said that he had told the President in 1968 that he should beware of his subordinates who would try to wear his Commander-in-Chief's stripes. I agreed saying that in my view the President should be protected from his self-appointed protectors who would harm him while trying to cover their own mistakes.

Gray said that our views coincided on this matter. He would resign on this issue if necessary and I said that in maintaining the integrity of our agencies we were rendering the President the best possible service. I, too, was quite prepared to resign on this issue.

He thanked me for my frankness and said that we had established a warm personal and frank relationship at the outset of our tenure in our respective jobs.

VERNON A. WALTERS,
Lieutenant General, USA.

JULY 28, 1972.

Memorandum for record.

1. On Friday, 28 July 1972, at 1100 I called on the Acting Director of the FBI, L. Patrick Gray, in his office at the FBI Building. He saw me alone. I said I had come to clarify the last memorandum I had given him in reply to enquiries from Mr. Parham re "Cleo".

2. I said that "Cleo" was Mr. Cleo [deleted] electronics engineer who was in contact with Mr. Hunt during August of 1971. Mr. [deleted] supplied a Uher recorder pursuant to Mr. Hunt's request and assisted him to get it in shape to use for overt, not clandestine, recording of meetings with agents. There was no attempt to make the recorder useful for clandestine activities. Mr. [deleted] had two additional meetings, generated by a phone call to the above number (a sterile telephone in one of our offices), to straighten out some difficulty that had arisen with respect to the microphones. We never recovered the recorder.

3. Aside from the above contact with respect to the recorder, there were contacts with Mr. Hunt with respect to false documents and disguise for himself and an associate. He was also loaned a clandestine camera, which was returned. We developed one roll of film for Mr. Hunt, of which we have copies showing some unidentifiable place, possibly Rand Corporation. We had had no contact whatsoever with Mr. Hunt subsequent to 31 August 1971.

4. He thanked me for this information and I added that when Hunt's requests had escalated, we had terminated our assistance to him and had no further contact with him subsequent to 31 August 1971. He was grateful for this information.

5. Gray asked me if the President had called me on this matter and I replied that he had not. Gray then said that a lot of pressure had been brought on him in this matter but he had not yielded. I replied that to destroy the integrity of our two Agencies would be the worst disservice we could do the President and I would not do it. He said he would not either. Gray then said that this was largely a money matter. Some heavy Texas money had given Barker the checks to convert into cash. Over zealotness as to money and judgment was [copy illegible].

6. I told him that we intended to terminate the 965-9598 number and he nodded. Then he said, "This is a hell of a thing to happen to us at the outset of our tenure with our respective offices." I agreed heartily.

7. He thanked me for coming to see him and for maintaining such a frank and forthright relationship with him. I left him a short unsigned memo embodying what I had told him.

VERNON A. WALTERS,
Lieutenant General, USA.

MAY 11, 1973.

Memorandum of conversation on February 21, 1973.

At the request of the Director, Dr. Schlesinger, I called on Mr. John Dean at his office at the White House at 1430. I explained to him that, in connection with his request that the Agency ask the Department of Justice to return a package of material that had been sent to them in connection with the Watergate investigation, it was quite impossible for us to request the return of this, as this would simply mean that a note would be left in the Department of Justice files that the material had been sent back to the Agency, and we had been asked not to destroy any material in any way related to this case. I again told him that there was no Agency involvement in this case and that any attempt to involve the Agency in it could only be harmful to the United States. He seemed disappointed. I then left.

VERNON A. WALTERS,
Lieutenant General, USA,
Deputy Director.

Mr. HÉBERT. Did I understand you just now to say the General dictated a memorandum to you and you gave it back to him, he initialed all memorandums? He showed them to Mr. Helms and then you put them in the safe?

Mrs. LEWIS. That is right.

Mr. HÉBERT. Is that the sequence of it, is that the actual sequence, the chronological order?

Mrs. LEWIS. Yes, sir.

Mr. HÉBERT. How do you know he showed them to Mr. Helms?

Mrs. LEWIS. He indicated to me he was going to do that, and he then went to Mr. Helms' office.

Mr. HÉBERT. Right after you typed them and gave them back to him?

Mrs. LEWIS. Yes.

Mr. HÉBERT. He indicated at that time that he was going to go to Mr. Helms?

Mrs. LEWIS. He told me he wanted to show those then to Mr. Helms.

Mr. HÉBERT. You assume he showed them to him?

Mrs. LEWIS. I assume he did.

Mr. HÉBERT. The minutes that he gave to you, he initialed them and then he said "I am going to show them to Mr. Helms," he then

took the memorandums, you assumed that he did show them to Mr. Helms?

Mrs. LEWIS. Yes.

Mr. HÉBERT. Then he returned them to you, gave you the memorandums, and you put them in the safe?

Mrs. LEWIS. Yes, that is right.

Mr. NEDZI. I believe you said, but I want to be certain, he did not suggest any changes in the memorandums after showing them to Mr. Helms, to your knowledge?

Mrs. LEWIS. No, sir, he did not.

Mr. HÉBERT. Mr. Chairman, perhaps we will have to go back in the record to find out exactly why the question. As I recall the record—of course the transcript of the testimony of General Walters will reflect the accuracy of my recollection—my recollection was the other day when he was here, the second time, in telling us about showing them to Mr. Helms. There was quite a lapse between the time he dictated them. He only showed them, as I recall, after the Watergate incident came up. I am a little vague on that, but the testimony will show.

Mr. NEDZI. My recollection is, Mr. Chairman, he had dictated or had written out in longhand the memorandums 5 days after the meeting, the first meeting.

Mr. HÉBERT. That is correct.

Mr. NEDZI. And then I believe he testified that he took the memorandums to Mr. Helms.

Mr. HÉBERT. Immediately at that time, or 5 days afterward? That is what Mrs. Lewis is testifying.

Mr. NEDZI. That is my understanding. At that time Mr. Helms said he didn't recall essentially that it was the President's wish. However, Mr. Walters did not have a recollection. It was on a personal memo.

Mr. HÉBERT. We will examine the record and see if there is a discrepancy in that respect.

Mr. NEDZI. Are there any further questions?

Mrs. Lewis, thank you very much for helping us.

Mrs. LEWIS. Thank you, Mr. Chairman.

Mr. NEDZI. I would like to have a copy of your notes for the record, please.

Mrs. LEWIS. You would like a copy of the shorthand notes?

Mr. NEDZI. Yes.

Mrs. LEWIS. Fine, I will get them to you.

[In committee files.]

Mr. NEDZI. Thank you.

Mr. Broe, do you swear the testimony you are about to give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF WILLIAM V. BROE, INSPECTOR GENERAL, CIA

Mr. BROE. I do.

Mr. NEDZI. Mr. Broe, do you have any statement you would like to make with respect to this matter for the record at this time?

Mr. BROE. Sir, are you referring to the letters that you mentioned?

Mr. NEDZI. Yes.

Mr. BROE. Yes, I might give the rundown of exactly the way they were done.

Mr. NEDZI. Do you have a copy?

Mr. BROE. No, I wasn't asked, so I just drew up some notes.

Mr. NEDZI. Proceed.

Mr. BROE. I will give a little background to show how I got into the thing.

I had not had any connection with the Watergate investigation or any aspect of the Watergate until Saturday, May 13, 1973.

Mr. NEDZI. Would you tell us for the record when you became Inspector General?

Mr. BROE. February 1972.

Mr. NEDZI. 1972?

Mr. BROE. Yes, sir. On Saturday—

Mr. NEDZI. Would you also outline your responsibilities as Inspector General?

Mr. BROE. I brought with me a copy of this. The Inspector General is charged with the responsibility of directing and coordinating the activities of the inspection staff and the audit staff in conducting inspections, investigations, and audits on behalf of the Director throughout the Agency, both at headquarters and in the field, performing each such function as may be directed by the Director.

That breaks down, if you wish a breakdown, that breaks down into more specific functions of the staff, if you would like to hear.

Inspection staff will survey and evaluate the assignment and performance of the missions and functions prescribed for all components of the Agency and make recommendations for such improvements as may assist them more fully to perform this appropriate function; investigate charges of reports of fraud, misuse of funds, conflicts of interest, and other matters involving misfeasance, malfeasance, non-feasance or violation of trust upon direction of the Director of Central Intelligence, the Deputy Director of Central Intelligence, or the Executive Director-Comptroller or upon request of the responsible Deputy Director or Head of Independent Office.

Provide a forum where Agency personnel may, on a highly confidential basis, confide grievances or complaints which have not received satisfactory consideration through regular channels of command.

The Office will provide the Agency's Equal Employment Opportunity Officer.

Mr. NEDZI. Will you tell the subcommittee when you were first charged with any responsibility in connection with what has been described as the Watergate affair?

Mr. BROE. Saturday, May 13, 1973.

Mr. NEDZI. This was the first time you had anything to do with this whole incident?

Mr. BROE. That is right. At that time I was briefed by Mr. Colby regarding the approach that was made to General Walters by Ehrlichman, Haldeman, and Dean. I had not known about that before.

I was instructed to launch an investigation to determine if there were any steps taken by E. Howard Hunt or James McCord to bring the Agency into the coverup, if anything was tried by them.

A few days before our discussion, around the 8th or 9th of May, the Director instructed all components of the Agency to come forward with descriptions of any Agency activities, especially in the domestic scene, that had a flat potential, that could cause problems.

Mr. NEDZI. You say a few days before that?

Mr. BROE. Yes; I believe it was the 8th. Because he put out a notice on the 9th concerning this. This is the notice I mentioned to you yesterday.

Mr. NEDZI. Were you advised of this orally before the notice was sent out?

Mr. BROE. He made a general announcement of that to the Agency at that time.

Mr. NEDZI. What form did the announcement take?

Mr. BROE. He spoke about it at a meeting, at a morning meeting. Everybody, all Directors, were to go back and ask their employees to turn in any information they might possibly have. Then on the 9th—

Mr. NEDZI. Did you take that to mean—didn't you take that to include the Watergate matter?

Mr. BROE. This was in regard to the Watergate matter.

Mr. NEDZI. So the first charge of any kind given to you was not the 13th of May but the 8th of May?

Mr. BROE. Well, sir, this was not given to me specifically. This was given to all components, to turn this information in to him.

Mr. NEDZI. Aren't you one of the components?

Mr. BROE. Oh, yes, sir. I thought you asked me, sir, when I was given this job of investigating the matter. I went back to my employees that same day and asked them to come up with any information they might have.

Mr. NEDZI. Did they come up with any information?

Mr. BROE. Yes; we went through our files, and some of that information that you saw, that you have seen yesterday in that long report, was in information that came from our files.

Then, Mr. Colby—

Mr. NEDZI. Was there anything disclosed at that time to you that pertained to the Watergate matter?

Mr. BROE. No, sir; none whatsoever. There was nothing.

Mr. Colby had collected all of this material that the Director had asked for, and he had it in a large folder. So he asked me, he turned it over to me at that time, on Saturday morning.

Mr. NEDZI. What was the date?

Mr. BROE. The 13th of May.

He turned this material over to me and he asked me if I would review the material as to the sensitivity and completeness. If any of the accounts were not complete I was to try to seek more information. I was to organize the information for a presentation to the Director. And I took that material, and started to do that.

On Monday, May 14, at 4:30 p.m., my Deputy and I met with Mr. Osborn, who is Director of the Office of Security, to ascertain what contacts and associates Mr. McCord had with Office of Security personnel, where he formerly worked, looking to see what possible continuing contacts he might have. We were interested in any of the information the Office of Security files might show on other Agency personnel that were close to McCord or Hunt.

Mr. Osborn finished a summary. He indicated one or two people he knew of, Mr. [Deleted] had come to his office and wanted to support Mr. McCord. He mentioned a number of people who had been——

Mr. NEDZI. What do you mean "wanted to support Mr. McCord"?

Mr. BROE. Mr. [Deleted] had come to the Office of Security and stated that he had been a friend of Mr. McCord, and he was concerned about the fact that he couldn't raise bail, and if anybody was going to take any action at any time to help Mr. McCord, he would be glad to contribute. He was advised by Mr. Osborn that no one would be interested, and thought it would be wise if he stayed out of it for the good of himself and the Agency.

I later interviewed him, and he did stay out of it. He felt very bad about Mr. McCord's plight.

Mr. NEDZI. Who is Mr. [Deleted]?

Mr. BROE. He is an employee of our [Deleted].

During the discussion with Mr. Osborn, he remembered that a number of letters that Mr. McCord had written, and he mentioned them to me, these letters had been written in July or December 1972, and January 1973. [See pp 166-177]

He briefly described the circumstances surrounding the receipt of the first letter that had been received at the Agency. It was first considered as a crank letter and then Mr. Osborn recognized the small "Jim" at the end as the way Mr. McCord signed correspondence. He had had a meeting about this letter, concerning this letter, with Mr. Helms and Mr. Houston, and they had decided at that meeting that they would not pass it forward to the FBI, the Department of Justice, and it was filed. It was kept in the file.

Mr. NEDZI. When did this occur?

Mr. BROE. I was told it occurred immediately upon its receipt, which was in July 1972. Mr. Osborn advised that Mr. Paul Gaynor, who was an employee of the Office of Security, had received the remainder of the letters. He also advised that Mr. Gaynor had an informant who knew McCord, and gave him some information regarding McCord and his wife.

Mr. NEDZI. Mr. Gaynor said this?

Mr. BROE. No; Mr. Osborn advised that Mr. Gaynor had this informant who did that.

Mr. Osborn advised he would get the file of letters, have them copied, and furnish me copies the next morning.

On Tuesday the 15th, Mr. Osborn brought the copies to my office. Later, interviewed Mr. Gaynor concerning his relations with McCord concerning the receipt of the letters, and whether he had had any type of contact with Mr. McCord as a result of the letters, and he had not.

As I understand it, he has not had any contact with Mr. McCord since he retired and left the Agency.

At that time, as I stated before, I was drawing together with Mr. Greer all of this information to make the report of all the sensitive information for the Director.

I included the letters in this report, and a draft—this is a very lengthy report—and it was drafted on Friday, May 19. The finished copy reached Mr. Colby on Monday, May 21.

Mr. NEDZI. Were you not struck by any sense of urgency when you came across this batch of letters in the light of the intensive efforts of the Director to get to the bottom of the Watergate problems?

Mr. BROE. I recognized the importance, sir. I recognized the sensitivity. I thought by putting it in my report I was getting them to him directly.

I obviously probably should have hand-carried them to him directly at that time. But my report was going forward and I didn't know the Director had testified about the last time that McCord had any contact. I didn't know Mr. Silbert had come to Mr. Houston on the 15th for any information. And I considered this really in the nature of contact with the Agency back and forth. So I didn't give it proper consideration, to look at the date, and to take it hand-carried forward.

Mr. NEDZI. Wasn't it in the newspapers at this time?

Mr. BROE. Oh, yes, I recognized the sensitivity.

Mr. NEDZI. Didn't it have some extra special significance as far as the Agency is concerned? It seems to me the other project can be very logically divided from the discovery of these particular letters. It is a puzzle as to why the Director was not immediately notified.

Mr. BROE. I was including all subjects, I am sorry, I just put this in the file; I mean, in this report I was preparing, and sent it forward.

That is really as much information as I have on the specific points. We are continuing our investigation. On May 21, we were instructed to expand our investigation, and to include any Agency contacts with Krogh or David Young, to determine if they had asked for any assistance that might bring in any illegal aspects. Mr. Young and Mr. Krogh had frequent contacts in the Agency for legal, legitimate business pertaining to the Executive order. We were asking everybody that had seen Mr. Krogh and Mr. Young out there, did they ever approach them to do anything or ask any information that would tie them to something else that was extra-legal or illegal.

Mr. NEDZI. Are you leaving it to the judgment of those individuals who were contacted to make that determination?

Mr. BROE. No, sir.

Mr. NEDZI. Are you reviewing all of the contacts?

Mr. BROE. We were reviewing all of the contacts. Everybody was asked to turn in every possible contact that they had with them, and with the full circumstances. The Director issued an order this morning, I understand, which I haven't seen, listing those people he wants every Agency employee to report any contact that they had had with them. I haven't seen this list, but I have been told there is such a directive.

We are contacting any of our organizations that might have possibly had any contact. These training people, the technical people, going to them, all our employees, to see if there is any chance they might have had these contacts, and didn't report it, or did report it.

Mr. NEDZI. Do you have any questions?

Mr. HEBERT. No.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. No questions.

Mr. NEDZI. Mr. Price.

Mr. MELVIN PRICE. No questions.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. No.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. No.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. No.

Mr. NEDZI. Thank you very much, Mr. Broe.

Mr. BROE. Do you want this 9th note?

Mr. NEDZI. Yes, we would like to have the note for the record.

[The memorandum referred to is as follows:]

ADMINISTRATIVE—INTERNAL USE ONLY

CENTRAL INTELLIGENCE AGENCY,
Washington, D.C., May 9, 1973.

Memorandum for all CIA employees.

1. Recent press reports outline in detail certain alleged CIA activities with respect to Mr. Howard Hunt and other parties. The presently known facts behind these stories are those stated in the attached draft of a statement I will be making to the Senate Committee on Appropriations on 9 May. As can be seen, the Agency provided limited assistance in response to a request by senior officials. The Agency has cooperated with and made available to the appropriate law enforcement bodies information about these activities and will continue to do so.

2. All CIA employees should understand my attitude on this type of issue. I shall do everything in my power to confine CIA activities to those which fall within a strict interpretation of its legislative charter. I take this position because I am determined that the law shall be respected and because this is the best way to foster the legitimate and necessary contributions we in CIA can make to the national security of the United States.

3. I am taking several actions to implement this objective:

I have ordered all the senior operating officials of this Agency to report to me immediately on any activities now going on, or that have gone on in the past, which might be construed to be outside the legislative charter of this Agency.

I hereby direct every person presently employed by CIA to report to me on any such activities of which he has knowledge. I invite all ex-employees to do the same. Anyone who has such information should call my secretary (extension 6863) and say that he wishes to talk to me about "activities outside CIA's charter."

4. To insure that Agency activities are proper in the future, I hereby promulgate the following standing order for all CIA employees:

Any CIA employee who believes that he has received instructions which in any way appear inconsistent with the CIA legislative charter shall inform the Director of Central Intelligence immediately.

JAMES R. SCHLESINGER,
Director.

DCI STATEMENT BEFORE SENATE APPROPRIATIONS SUBCOMMITTEE
ON INTELLIGENCE OPERATIONS—9 MAY 1973

OPENING STATEMENT

Mr. Chairman, I am here to discuss the questions which have arisen over CIA's real and alleged role in events that occurred in 1971 and 1972. I have opened a detailed investigation into the precise nature of that role. I can report to you on what Agency records, now being intensively reviewed, reveal at this juncture. However I do not yet know that I have all the facts in the matter. Nonetheless, I am pleased to present to you such facts as are now available, and I will certainly provide you with any further details as they come to my attention.

Let me start with the Agency's relationship with Mr. Howard Hunt, whose testimony has recently been made public. Mr. Hunt was a staff employee of the Agency from 8 November 1949 to 30 April 1970. At that time he retired from the Agency. He performed one editorial job of writing up a recommendation for an award for one of our officers in November 1970. He was not paid for these services, although the Agency placed the sums of \$200.00 and \$50.00 in two charitable organizations for the service performed.

In early July 1971, General Cushman, then the Deputy Director of Central Intelligence, received a telephone call from the White House. He was informed that Mr. Hunt had become a consultant on security affairs for the White House, and a request was made that Mr. Hunt receive assistance from the Agency.

The minutes of the Agency Morning Meeting of 8 July 1971 indicate that the DDCI (General Cushman) reported a call by John Ehrlichman stating that Howard Hunt had been appointed a White House security consultant.

On 22 July 1971 Mr. Hunt visited General Cushman at the CIA building. According to the records, Mr. Hunt stated that he had been charged with a highly sensitive mission by the White House to visit and elicit information from an individual whose ideology he was not entirely sure of, and for that purpose he said he was asked to come to the Agency to see if he could get two things: identification documents in alias and some degree of physical disguise, for a one-time operation. He stressed that he wanted the matter to be held as closely as possible and that he would like to meet the Agency people in an Agency safehouse. Agency records indicate that, in the course of the conversation, Mr. Hunt referred to Mr. Ehrlichman by name and General Cushman acknowledged an earlier call from Mr. Ehrlichman to him. The Committee may desire to query General Cushman whose knowledge would not come from such secondary sources.

General Cushman directed the appropriate technical service of the Agency to be of assistance to Mr. Hunt, based on the above requests. On 23 July 1971 Mr. Hunt was given alias documents, including a Social Security card, driver's license, and several association membership cards, in the name of "Edward Joseph Warren" similar to material he had been furnished for operational use while he had been an Agency employee, under the name of "Edward V. Hamilton." The same day Mr. Hunt was also given disguise materials (a wig, glasses, and a speech alteration device).

By calling an unlisted telephone number given him, Mr. Hunt arranged several additional meetings with Agency technical officers, the dates of which cannot be provided with precision. In these, he requested and was provided a commercial tape recorder (in a typewriter case) and a commercial Tessina camera disguised in a tobacco pouch. He also brought in a then-unidentified associate (later identified from press photos as Mr. G. Gordon Liddy) and secured for him a disguise (wig and glasses) and alias documents in the name of "George F. Leonard."

The Agency technical officers met these requests despite the absence of the procedural steps and approvals normally required by Agency regulations. However, they became increasingly concerned at the escalation of Mr. Hunt's requests for assistance. These finally included a request from Mr. Hunt to be met on the morning of 27 August 1971, upon his return from California, to have a film developed and returned to him. This was done the same day. He also asked for a New York mail address and telephone-answering service for operational use.

The technical officers raised their concern with senior officers, who noted the possibility that these activities could involve the Agency in operations outside its proper functions. As a result, again according to Agency records, General Cushman telephoned Mr. Ehrlichman at the White House on 27 August 1971 and explained that further such assistance could not be given. Mr. Ehrlichman agreed. The request for mail address and telephone answering service was not honored. On 31 August 1971, Mr. Hunt contacted the technical officers again, requesting a credit card, but this was refused. Mr. Hunt had also made a request on 18 August 1971 for the assignment of a secretary he had known during his Agency career. This was also refused. The earlier-furnished alias documents and other material were not recovered, however, except for the Tessina camera which was returned on 27 August as unsuitable. Since the end of August 1971, the Technical Services Division has had no further association with Mr. Hunt. As a point of reference, I would note that the break-in of the office of Mr. Ellsberg's psychiatrist took place on or about 3 September 1971.

The Agency outlined the above events to Mr. Patrick Gray, Acting Director of the FBI, in letters dated 5 and 7 July 1972, and a meeting on 28 July 1972. A series of questions were asked the Agency on 11 October 1972 by Mr. Earl Silbert, Principal Assistant United States Attorney for the District of Columbia. On 24 October 1972, Attorney General Kleindienst and Assistant Attorney General Petersen reviewed the 5 and 7 July transmittals together with additional, more detailed but undated materials, that had been provided to Acting FBI Director Gray on 18 October 1972. The Agency is aware that this material was reviewed on 27 November 1972 by Mr. Silbert, who asked additional questions on that date as well as on 29 November 1972. Written responses to the foregoing questions were provided on 13 December 1972. An additional submission was made to the Assistant Attorney General Petersen on 21 December 1972. This material was discussed at a meeting held with Assistant Attorney

General Petersen and Mr. Silbert on 22 December 1972. All of the foregoing materials can be made available to the Committee if it so desires.

As a separate matter, which was not known by those who prepared the material for the Department of Justice in the fall of last year, the Office of Medical Services of the Agency prepared and forwarded to the White House two indirect personality assessments of Mr. Daniel Ellsberg. The Agency has had a program of producing, on a selective basis, such assessments or studies on foreign leaders for many years. In July 1971 Mr. Helms, then Director, instructed Agency officers to work with Mr. David Young of the White House Staff relative to security leaks in the intelligence community.

Mr. Young requested a study on Mr. Ellsberg in the latter part of July 1971, which Agency activity was apparently approved by Mr. Helms. At that time, Mr. Young supplied raw material consisting principally of newspaper and magazine articles together with some State Department and Justice Department papers. The first assessment delivered to the White House dated 9 August 1971, was judged insufficient. As a result, there were several meetings between Dr. Malloy, Mr. Hunt, and Mr. Liddy, in which classified information of the Justice and State Departments was introduced. One such meeting occurred on 12 August 1971. Additional material was transmitted by Mr. Hunt on 12 October, and another meeting was held on 27 October. These meetings led to a second version of the assessment, dated 9 November 1971. This document was delivered to the Executive Office by Dr. Malloy on 12 November 1971. Agency records indicate that Mr. Helms had previously communicated with Mr. Young indicating he had read both reports.

In another contact "about October 1971," an Agency officer arranged to provide Mr. Hunt certain unclassified materials from CIA files relative to a 1954 French case of leakage of Government documents. These were delivered to his office at the White House.

In closing, I would like to stress several conclusions of my investigation so far:

(a) CIA had no awareness of the details of Mr. Hunt's activities. The Agency's impression was that Mr. Hunt was engaged in an activity related to identifying and closing off the security leaks that were so much a preoccupation of the Government at the time.

(b) The Agency clearly was insufficiently cautious in the initiation of its assistance to Mr. Hunt. Later, when the nature of Mr. Hunt's requests for assistance began to indicate a possible active involvement by the Agency in activities beyond its charter, the Agency terminated the relationship and refused further assistance.

(c) The preparation of a profile on an American citizen under these circumstances lies beyond the normal activity of the Agency. It shall not be repeated—and I have so instructed the staff. This shall be made a part of the regulations governing such activities.

(d) As Director, I have called for a review of all Agency activities and the termination of any which might be considered outside its legitimate charter. In addition to requesting this review from my subordinates, I have directed each employee and invited each ex-employee to submit to me any cases which they may question. I am determined that the Agency will not engage in activities outside of its charter but will concentrate its energies on its important intelligence mission.

Mr. NEDZI. Mr. Gaynor.

Mr. Gaynor, do you swear the testimony you are about to give in this hearing to be the truth, the whole truth and nothing but the truth, so help you God?

TESTIMONY OF PAUL F. GAYNOR, CHIEF OF SECURITY RESEARCH STAFF, CIA

Mr. GAYNOR. I do, sir.

Mr. NEDZI. Will you please state your full name?

Mr. GAYNOR. Paul Francis Gaynor.

Mr. NEDZI. Where do you live, Mr. Gaynor?

Mr. GAYNOR. 4629 35th Street North, Arlington, Va.

Mr. NEDZI. Where are you employed?

Mr. GAYNOR. With the Central Intelligence Agency.

Mr. NEDZI. In what capacity?

Mr. GAYNOR. I am Chief of the security research staff of the Office of Security.

Mr. NEDZI. How long have you served in that capacity?

Mr. GAYNOR. I happened to check this date yesterday. Since the 22d of February 1951, until the latter part of May 1957. And I have had an overseas assignment which I returned from at the beginning of September 1959, and I returned to the same position that I now hold.

Mr. NEDZI. You served in that capacity for the last 14 years?

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. And prior to that you served also for a period of time?

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. What are your responsibilities?

Mr. GAYNOR. The responsibility of my staff is counterintelligence as it applies to the staff employees of the Agency.

Mr. NEDZI. Were you acquainted with James McCord?

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. Would you describe the acquaintanceship?

Mr. GAYNOR. Mr. McCord was assigned to my Office I believe in early 1955. He served on my staff up to the time I went to Germany. He continued in the same position while I was overseas. When I returned he was with me until early in 1962, when he was selected for an overseas assignment, and he went into training and preparation for that assignment.

When he completed it a couple years later, he returned to the Office of Security but not to my staff.

Mr. NEDZI. Did you maintain a personal contact with him during these years?

Mr. GAYNOR. I had a close working relationship with Mr. McCord while he was working for me. We were not socially close. I have never been in his home. He has never been in my home. We may have had a lunch occasionally together, but our relationship was just that, official relationship, a working relationship.

Mr. NEDZI. Would you describe it as a cordial one?

Mr. GAYNOR. Yes.

Mr. NEDZI. Or an arm's-length kind of arrangement?

Mr. GAYNOR. No, we were friends, I would say, in that sense.

Mr. ARENDS. Where did McCord come from when he first came to work for the Agency in 1952, did you say, or 1954?

Mr. GAYNOR. He was working for the Office of Security, I believe, as an investigator on the west coast and was transferred into Washington. I believe, sometime in 1954, sir.

Mr. ARENDS. With the CIA on the west coast?

Mr. GAYNOR. Yes, sir.

Mr. ARENDS. Thank you, Mr. Chairman.

Mr. NEDZI. Mr. Gaynor, when did you first receive any information with respect to the Watergate matter that involved the Agency?

Mr. GAYNOR. In regard to the letters. I had no knowledge of any Agency involvement with Watergate. And as far as I was concerned

there was none. The first letter I received was in December 1972. I probably received it about the 24th of December.

Mr. NEDZI. At that time what did it signify to you?

Mr. GAYNOR. That he was contending that there was going to be an attempt to place the onus for Watergate on the Central Intelligence Agency. That was going to be the defense of the whole group of defendants.

Mr. NEDZI. Was there any doubt in your mind as to who the sender of the letter was?

Mr. GAYNOR. No, sir.

Mr. NEDZI. Would you describe which of these letters or notes that have been furnished the committee was that first one?

Mr. GAYNOR. The letter dated December 22, 1972, and it opens up, "Dear Paul."

Mr. NEDZI. Would you read that for the record, Mr. Gaynor?

Mr. GAYNOR [reading].

There is tremendous pressure to put the operation off on the company. Don't worry about me no matter what you hear.

The way to head this off is to flood the newspapers with leaks or anonymous letters that the plan is to place the blame on the company for the operation. This is of immediate importance because the plans are in the formative stage now, and can be pre-empted now, if the story is leaked so that the press is alerted. It may not be headed off later when it is too late.

The fix is on one of the police officers in the MFD intelligence department, to testify that one of the defendants told him the defendants were company people and it was a company operation. He has probably been promised a promotion for changing his story to this effect. Be careful in your dealing with them. I will do all I can to keep you informed. Keep the faith.

Mr. NEDZI. Was there anything else in the envelope in addition to this particular notice?

Mr. GAYNOR. That particular letter was sealed in a smaller envelope, and then there was an outer envelope with the address on it.

Mr. NEDZI. Was that your address on the outer envelope?

Mr. GAYNOR. No, sir.

Mr. NEDZI. Whose address was it?

Mr. GAYNOR. That first letter went to the apartment of my son, who lives over in South Arlington.

I believe—Mr. McCord may have been in a hurry when he did this, because my son was listed ahead of me in the telephone directory. My son received it, opened it, realized it was something with no relationship to him, and immediately brought it to my home.

Mr. NEDZI. What did he mean by "the company" in his letter?

Mr. GAYNOR. He was referring to Central Intelligence Agency. That is a common expression used by Agency employees when we are talking about the Agency, you don't want to use the three words.

Mr. NEDZI. Was there any previous contact on his part, or attempt to contact you in any form?

Mr. GAYNOR. No, sir, I have not seen nor talked to Mr. McCord since some time in the summer of 1970, when he was retired and he came into my office to say goodbye.

Mr. NEDZI. No one else had contacted you with respect to him?

Mr. GAYNOR. I have had some contact with a friend of his, who serves as an intermittent source for my staff. But that was strictly his comments as to how Mrs. McCord was bearing the strain of Mr.

McCord's difficulties in attempting to raise bail. Of the bad effect his absence from the home was having on their retarded daughter.

Mr. NEDZI. When were these contacts made? And under what circumstances?

Mr. GAYNOR. I would say probably some time around the Christmas period, and some time prior to the commencement of Mr. McCord's trial.

Mr. NEDZI. There were no contact previous to that?

Mr. GAYNOR. I see this particular individual, or hear from him, routinely, on a monthly basis, or so, but not in connection with Mr. McCord's affairs. He would casually bring me up to date.

Mr. NEDZI. I would like to have you describe the circumstances under which he made mention of McCord during the month of December.

What were the circumstances? Did you contact this individual, or did he contact you for another purpose, and this was incidental to the conversation?

Mr. GAYNOR. He would have contacted me just in the nature of our continuing business, and then he would comment as to what the situation was at the McCord home, knowing I had worked closely with Jim at one time. He figured I had some interest.

Mr. NEDZI. Would you describe him as a close personal friend of McCord?

Mr. GAYNOR. I believe he is, sir.

Mr. NEDZI. Would you describe the next written contact?

Mr. GAYNOR. The next envelope contained three pieces of paper, and was received probably about the 30th of December.

Mr. NEDZI. Would you describe those papers?

Mr. GAYNOR. One is a piece of paper that contains five names.

Mr. NEDZI. Would you read those names, please?

Mr. GAYNOR. J. Mitchell, J. Dean, J. Magruder, Colson, and Liddy.

Mr. NEDZI. What additional was there in the envelope?

Mr. GAYNOR. The next piece of paper bore three sentences.

"The MPD officer's name is Carl Bittenbender.

"The pressure is still on. They can go to hell.

"Anytime you need me to testify before a congressional committee in your behalf just yell."

Mr. NEDZI. What did you understand that to mean?

Mr. GAYNOR. I regarded his using the words "in your behalf", that he was talking about the Agency, not about me as a person.

Mr. NEDZI. The third paper?

Mr. GAYNOR. The third paper bears the handwritten word "Copy" at the top. And off on the righthand top corner, handwritten, "Jack Caulfield."

Then it says, typewritten:

Jack—Sorry to have to write you this letter but felt you had to know.

If Helms goes, and if the WC operation is laid at CIA's feet, where it does not belong, every tree in the forest will fall. It will be a scorched desert. The whole matter is at the precipice right now. Just pass the message that if they want it to blow, they are on exactly the right course. I'm sorry that you will get hurt in the fallout.

Mr. NEDZI. These three notes were received by you?

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. At what time?

Mr. GAYNOR. I would say on or about the 30th of December.

Mr. NEDZI. How did you know these were from McCord?

Mr. GAYNOR. Because of the subject matter. I couldn't think of anyone else in my acquaintanceship that had anything to do with the dilemma that McCord was in.

Mr. NEDZI. Did you recognize the handwriting of these items that appeared in writing at all?

Mr. GAYNOR. It looked very familiar to me. I can not testify. I am not a handwriting expert. But I have seen enough of McCord's handwriting in my time. I was fairly certain this was his script.

Mr. NEDZI. There is no doubt in your mind these were from McCord?

Mr. GAYNOR. No, sir.

Mr. ARENDS. One was handwritten. Were the others typed? Were all the notes typed?

Mr. GAYNOR. They were all typed except at the top of this first piece of paper, the last piece of paper I mentioned where it was handwritten "Copy", handwritten "Jack Caulfield."

Mr. MELVIN PRICE. Who is Jack?

Mr. GAYNOR. It is handwritten up in the righthand corner, "Jack Caulfield."

Mr. MELVIN PRICE. But you got a copy of the note?

Mr. GAYNOR. He sent a copy of the note to me, yes, sir.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. On that "Jack", do you conclude he would send you a copy of the memorandum he sent to Jack Caulfield?

Mr. GAYNOR. Yes, sir.

Mr. BRAY. Did you ever check whether that was true or not?

Mr. GAYNOR. No, sir.

The name "Jack Caulfield" meant nothing to me. I never heard of the person at that time.

Mr. BRAY. Incidentally, when did McCord leave the CIA, 1970?

Mr. GAYNOR. I believe his final date was August 31, 1970.

Mr. BRAY. That was before any of these problems had broken?

Mr. GAYNOR. Yes, sir.

Mr. BRAY. He left after he served 20 years, is that it?

Mr. GAYNOR. He left because he had served 20 years. He had a retarded daughter. He was deeply interested in working with retarded children. At the time he left, his announced intention was to set up some type of a movement or organization which would coordinate the total national effort in the field of retardation.

I assumed, I have no direct knowledge, he was going to get access to some foundation grant.

Mr. BRAY. What kind of a man was McCord?

Mr. GAYNOR. He is a quiet, religious man, deeply devoted to his family, totally patriotic, and I know, had a very high regard for the Agency. I think this is why he took this course of action, these letters.

Mr. BRAY. I am not a psychiatrist, but I went over these notes pretty carefully, and it sounds like a man that was under mental pressure. Of course later actions might have caused that, but it didn't quite, as you say, track.

Mr. GAYNOR. My impression of him, anything he undertook, he throws himself into totally.

Mr. BOB WILSON. Will you yield?

Mr. BRAY. Yes.

Mr. BOB WILSON. Do you know of any instance where he might have been treated by a psychiatrist for any kind of psychoanalysis or any treatment for mental disorders?

Mr. GAYNOR. No, sir, not to my knowledge.

Mr. BOB WILSON. I would agree with Congressman Bray in reading this note. I am not a psychiatrist, but it appears to be a sort of persecution complex. He is finding everything going wrong, and I would think he is under mental pressure in the way some of these thoughts are written.

Mr. GAYNOR. I believe he was under tremendous pressure, sir, at that time, and I think that would have covered his language.

Mr. NEDZI. Mr. Gaynor, when was the next time you had a contact by mail?

Mr. GAYNOR. The next letter which would be the third envelope, dated 29th of December, and I believe I received it after the first of the year, probably the second or third of January.

Mr. BOB WILSON. Sort of like a late Christmas card?

Mr. NEDZI. What was the content of that envelope?

Mr. GAYNOR. That is headed up "Notes, December 29, 1972."

What is needed:

1. Evidence of illegal govt. wiretapping of our telephones, either on national security grounds or domestic security grounds, both of which are done on authority of the attorney general's signature alone.

a. There were two national security calls by me from our home phone (762-0187). One was made to the Israeli Embassy on (blank) and the other was made to the Chilean Embassy on (blank). Both calls were witnessed by my wife.

b. I am convinced that from at least June 17—early July there was a wiretap on our home and office phones on authority of A/C's signature alone. On June 26, 1972 the Supreme Court declared such wiretaps illegal, and several cases have been dismissed on these grounds recently, rather than disclose in adversary proceedings the contents of such calls and conversations, and the names of the parties involved.

c. There is no question but that our home and office phones are still being tapped. If done without a Court order, we are in an excellent position to have the cases dropped. The prosecution has asserted there were not taped conversations of any kind—national security, domestic security, or court ordered. This is bunk.

What I need is proof—logs, transcripts or testimony from an FBI agent or two who had monitored such calls.

2. Evidence of perjury or false swearing by Cary Rittendender, the MPD officer. I know he is lying. Some additional evidence, even circumstantial would help.

3. I have the evidence of the involvement of Mitchell and others, sufficient to convince a jury, the Congress and the Press.

The maximum effect is accomplished if everything is held until the trial has just started, and then surface everything at once—showing beyond any doubt the hypocrisy of the whole group and how fixed the whole federal criminal justice system has now become.

Mr. NEDZI. Is this particular note a copy, or was it an original type-written sheet?

Mr. GAYNOR. I haven't seen the originals of these since back in January, as I recall. I believe it was original-type piece of paper.

Mr. NEDZI. Mr. Gaynor, what did you understand him to mean by "two national security calls being made by me?"

Mr. GAYNOR. Frankly, that baffled me. I couldn't relate that to anything at the time. I know, sir, since it has come out, what his purpose was, but at that time I couldn't figure out what he was driving at.

Mr. NEDZI. What is his purpose, as you understand it now?

Mr. GAYNOR. That he was making an assumption there was a tap on his phone, and that it would be brought out these calls had been made, which would be proof that it was a tap on his phone.

Mr. ARENDS. Why would he be calling these two Embassies?

Mr. GAYNOR. I have no idea, except to lay some groundwork for proving that his phone was tapped.

Mr. HÉBERT. Trying to prove an illegal tap to set the ground for a dismissal of the trial, isn't that it?

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. Thank you. Did he create the impression the Israeli and Chilean Embassy phones were tapped?

Mr. GAYNOR. I did not take that implication.

Mr. HÉBERT. As I understand it, Mr. Chairman, of course this is hearsay again—just pick it up as it is—Mr. McCord created these taps purposely thinking that his phone was tapped, and the type of conversations he was putting through, this was an illegal tap. At the proper time in coming to trial he would bring out this illegal tap and the whole case would go out the window. Is that a correct summation?

Mr. GAYNOR. Yes, sir.

Mr. HÉBERT. He was laying the foundation for the future.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. This last paragraph, where he lays out the game plans, is that one of the reasons we are just getting these documents at this time?

Mr. GAYNOR. Pardon me, sir?

Mr. BOB WILSON. The last paragraph of this suggested game plan, it says, "The maximum effect is to hold everything until the trial has started and then surface everything at once." Is that one of the reasons we are just getting these documents in the last few days?

Is he following his game plan?

Mr. GAYNOR. I do not know, sir.

Mr. BOB WILSON. It is strange. I wish the subcommittee could really determine why these things have been in somebody's files all this time. I know we are trying to, but I still would like to get to the bottom of it. This looks very strange. I think the Agency hasn't been candid with this committee, which has shown a great deal of sympathy for the problems that they are facing, and I am a little disturbed. There may be other information that has not yet surfaced that will again bear on this whole thing. I hope there isn't.

Mr. NEDZI. It is clear that the chairman of this subcommittee shares your concern.

Will you describe the other memos or notes that are included in that particular envelope?

Mr. GAYNOR. In that same envelope there was another memo, or a carbon copy, I am not positive whether a copy or a carbon copy. It starts out:

I have released Mr. Gerald Alch as my defense attorney in the Watergate Case.

In meetings recently in which plans for our defense in the Watergate trial were discussed, he persisted in a proposal that I claim that the Watergate operation was a CIA operation. This is flatly untrue, and when I rejected it, he then went on to make a second proposal.

The second proposal then was that I claim that the four Cubans and I cooked up the bugging operation on our own. This also is untrue.

It was patently obvious that in my own interests of a fair trial that I dismiss Mr. Alch and find myself another attorney. I am actively engaged in doing just that.

The implications inherent in these two proposals imply the deepest corruption and perversion of the criminal justice system in recent history. It smacks of total political control of the federal investigative process, the federal grand jury process, and the federal prosecutors.

Never in our nation's history has the integrity of the national intelligence system especially and of the FBI been in such jeopardy.

It forebodes in the present direction of the FBI the return to the politically corrupt system that Hoover inherited. The fine organization is already crumbling.

When the hundreds of dedicated fine men and women of CIA can no longer write intelligence summaries and reports with integrity without fear of political recrimination—when their fine director is being summarily discharged in order to make way for a politician who will write or rewrite intelligence the way the politicians want them written, instead of the way truth and best judgment dictates, our nation is in the deepest of trouble and freedom itself was never so imperiled. Nazi Germany rose and fell under exactly the same philosophy of governmental operation.

This nation is truly in the deepest trouble it has been in in 200 years.

I fully expect the most intense character assassination campaign and harassment to be mounted against me. So be it. The integrity of the CIA and of the FBI and of the whole Federal Criminal Justice System is far more important than one man's future or life.

Mr. NEDZI. Mr. Gaynor, what do you take him to mean that "I was to claim the four Cubans and I cooked up the bugging operation"?

Mr. GAYNOR. I took that to mean the four Cubans who were arrested at the time of the Watergate break-in.

Mr. NEDZI. What did you understand from his statement that "fine men and women could no longer write intelligence summaries and reports with integrity without fear of political recrimination"?

Mr. GAYNOR. That I took to be a statement of his. What knowledge he has to produce it, I haven't the faintest idea.

Mr. NEDZI. You didn't attach any significance to that at all? Was he told by anybody in the Agency that there were political recriminations?

Mr. GAYNOR. I know nothing of any such recriminations, no, sir.

Mr. NEDZI. Would you describe the last piece that was in that envelope?

Mr. GAYNOR. Notes, Dec. 29, 1972.

I am convinced that the fix is on Gerry Alch and Bernie Shankman.

Too many things don't add up, namely:

1. Their persistence in wanting to let Gerry Alch call Helms to testify and to call Vic Marchetti "to lay the background re CIA employees once caught in the act, refusing to admit it. Also re custom and tradition of CIA along this line."

Somehow the fix is on Marchetti or he is a party to this ploy in some way. They are too persistent about it.

2. Their persistence in trying to find out how much I know about Mitchell's involvement, and the negative type approach, "Well, he didn't really talk to you about it, did he?"

3. Failure to really debrief me on my whole participation and knowledge. None has really occurred to date, and an absence of communications has been particularly noticeable from Nov. 7-Dec. 21st. The presence of what appears to be a desire to let time run out before the trial starts.

4. The fixed police officer's report that of Gary Bittenbender (not Carl as previously reported). The impact of his statement is one which can be read two ways, giving them a fallback position. (1) That I claimed to him at the time of arraignment that this was a CIA operation, and (b) that this was an operation which we—the Cubans and I—cooked up on our own. No such statements were made. They are absolutely false.

Bittenbender incidentally has a twin brother as I recall ; I have never met him to my knowledge. I assume he also works in the intelligence division.

5. The general focus and impact of everything that is happening is that :

a. They are trying to put the blame for the operation on CIA and or McCord, or both, shifting the focus away from the White House (Liddy and Hunt).

b. The U.S. Attorney has blown the case against the Cubans by visiting personally their employers in Miami, affecting their ability to make a living causing Frank Sturgis' employer to fire him.

c. They appear willing to get McCord off but only on the condition that he place the blame for the operation on CIA—or take the blame himself. No go.

d. The wording of questions such as "You really don't want Helms to be called because you don't want to be a stoolie against CIA, do you." These leave no doubt whatever.

6. Today I visited Bernard Shankman (Alch's local rep in the case) and gave the attached letter to him, telling him I planned to release it to the press today and get a new attorney. He asked that I hold off until Tuesday morning next to talk with Alch before doing anything. I may or I may not wait past Saturday, December 30, 1972.

Now, when he refers to an attached letter, that is the piece of paper I read preceding this one.

Mr. NEDZI. When was the next contact which you had ?

Mr. GAYNOR. The next was January 3, 1972, which I probably received the 5th or 6th of January.

Mr. BOB WILSON. 1973 ?

Mr. NEDZI. You mean 1973 ?

Mr. GAYNOR. 1973. He has it dated 1972. It was January 1973.

Mr. NEDZI. Would you read that for the record, please ?

Mr. GAYNOR. It is headed "Notes," and, as I say, it is dated January 3, 1972. Obviously an error.

It would appear that we have headed them off at the pass. The crisis appears to be over.

Yesterday, Tuesday, I had delivered to Judge Sirica a copy of a letter mailed to Gerald Alch, dated Jan. 1, 1972, releasing Alch as my attorney. Yesterday afternoon Sirica called a meeting in court for today for me, Alch, all of the defense attorneys, and the prosecuting attorneys to find out what my letter was all about. Concurrently, Alch was on the phone to me several times trying to patch matters up.

I had advised Alch orally that the reason for his dismissal was his pressing the defense issue on me, or trying to, of placing the blame for the operation on the company where it did not belong. I repeated that I would not stand for it, nor would I sit still for any other defense attorney trying to do it.

Alch met with me this morning and assured me the issue was dead, that he would not try it again, nor would anyone else. We met with the judge and the others and in a brief session answered his questions, without disclosing exactly what was at stake. He obviously knew something was up and is now alerted. We advised him that we were going to give it a new try at working together. The press was there and were also alerted, but they have not yet dug up the reasons behind the whole thing.

Bittman was shook and has obviously taken the heat on this, because of my violent reaction. He should because he had transmitted to Alch the original idea. We know of course who passed the idea to Bittman.

We took them up to the brink on this, and I don't believe they will try it again. Breaking it to the press could have gotten some of them disbarred and broken the whole mess wide open.

Let's trust that this this much of it is now behind us. Now we'll work on the other problems at hand. Keep the faith.

Mr. NEDZI. Did the sentence, "We know of course who passed the idea to Bittman," have any meaning to you ?

Mr. GAYNOR. Frankly, no ; that baffled me. I couldn't figure out who he was talking about, unless it was whoever supervised him in his work for the Committee to Reelect the President.

Mr. NEDZI. Do you have any idea now?

Mr. GAYNOR. No, sir.

Mr. NEDZI. Do you recall whether this was an original or whether it was a copy of a letter that was sent to somebody else?

Mr. GAYNOR. I think it was a typewritten original.

Mr. NEDZI. Would you advise us when the next contact was?

Mr. GAYNOR. The next letter dated January 5, again, 1972.

This would have been received about the 8th, I believe—whatever it would have been, a mail delivery day 2 or 3 days after.

It is headed up "Notes."

Mr. HÉBERT. He means January 1973, again? You said 1972.

Mr. NEDZI. It is dated incorrectly.

Mr. HÉBERT. Dated incorrectly.

Mr. GAYNOR. He misdated this, yes.

Mr. HÉBERT. The actual reception was in January 1973?

Mr. GAYNOR. Yes, sir.

1. The outfit tried to lay the operation at the feet of CIA this week and that failed.

2. Yesterday they tried to get all of the defendants to plead guilty, thus protecting those higher up from involvement, and that failed. Barker and Hunt allegedly were willing to plead, so it is said. McCord and Liddy refused.

3. In revenge, now the prosecution is planning to state that the motives of at least some of the defendants was blackmail. This came out in the ACLU hearings today in which the ACLU lawyer said that he was told this by the prosecution—that blackmail was the motive.

4. The outfit is even getting predictable. It was anticipated that when I refused to implicate CIA they would undertake a massive character assassination attempt.

5. The judge is not buying this ploy—he indicated as much this morning, referring to it as a 'cover story' and indicating that the world was watching this case, the Democrats were criticizing its handling and that the jury was going to get to the bottom of it. He said that he would personally examine the takes of testimony and send any to the grand jury that involved higher ups—or lower figures involved.

Some of the newsmen say we are scapegoats. They are right.

6. Corrected the telephone call data:

Call to Israeli Embassy—September 21, 1972 8:35 a.m., telephone 762-7620.

Call to Chilean Embassy—Oct. 10, 1972, 4:50 p.m., telephone 762-8720.

Mr. NEDZI. This particular note, Mr. Gaynor, did not have an envelope included with it. Will you explain why?

Mr. GAYNOR. I probably destroyed the envelope. I have no recollection. In fact, I don't even know why I kept the other envelopes, but I did. This one somehow—

Mr. NEDZI. You don't know why you kept the other envelopes?

Mr. GAYNOR. I felt I should bring in the whole package as I got it; that was my motive. I could just as well have opened these things, taken out the contents, and tossed the envelope in the trash.

Mr. NEDZI. Is that the way an intelligence officer operates?

Mr. GAYNOR. That is the way I handle my personal mail. This mail was coming to me as a person.

Mr. NEDZI. Did you consider this to be personal mail?

Mr. GAYNOR. Not once I saw the tenor of it; no, sir. I regarded it as his attempt to get some information to the Agency of what he felt was transpiring.

Mr. NEDZI. Frankly, I am a little troubled that you regard the envelope in these cases as so insignificant.

Mr. GAYNOR. Well, I realize they are not, because of the postmark on them, sir.

Mr. NEDZI. What did you do with these letters when you received them?

Mr. GAYNOR. On each following workday, after the receipt of them, at the opening of business in the morning, I would hand-carry the letters to my superior.

Mr. NEDZI. What transpired at that time?

Mr. GAYNOR. As I say, each time I received one, I hand-carried them in to my superior, and turned them over to him.

Mr. NEDZI. To whom?

Mr. GAYNOR. Mr. Howard J. Osborn, Director of Security.

Mr. NEDZI. What was said at that time?

Mr. GAYNOR. I would say "Here is more from Jim."

Mr. NEDZI. What did he say?

Mr. GAYNOR. He would indicate he wanted to peruse them, I don't recall the exact language of the exchange.

Mr. NEDZI. On the first occasion this occurred, you took the letter to Mr. Osborn, what transpired between you and Mr. Osborn at that time?

Mr. GAYNOR. I handed the letter over and said I assumed it was from McCord, and he was obviously trying to tell us something.

Mr. NEDZI. Did you have any further conversation?

Mr. GAYNOR. I really don't recall.

Mr. NEDZI. Did you ask any questions about the letter or anything else involving McCord?

Mr. GAYNOR. Not to my recollection, sir.

Mr. NEDZI. Doesn't that strike you as rather unusual?

Mr. GAYNOR. Well, I was putting these communications into the channel which I felt would receive—they would receive consideration at a much higher level than mine.

Mr. NEDZI. You are in the counterintelligence section of the Agency?

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. You didn't feel any need to go beyond just filing these letters with Mr. Osborn?

Mr. GAYNOR. I believe Mr. Osborn did take them up with the Director.

Mr. NEDZI. You were never consulted in any way as to the content or your relationships with Mr. McCord?

Mr. GAYNOR. I made it clearly understood that this was a one-way street, that I had had no connection with Mr. McCord since his retirement, either verbally or in person.

Mr. NEDZI. Why do you think these letters were addressed to you?

Mr. GAYNOR. Because of the fact we had worked together some years back, and I imagine McCord was assuming I was still in the same position I had when he left, and that he knew I would have direct channel of communications directly with the Director of Security. I would report to him, I would see these letters would get somebody's attention. I think he could have sent them to other people he knew. I don't know why he didn't.

Mr. NEDZI. Did you make any notes of your own on this incident?

Mr. GAYNOR. No, sir.

Mr. NEDZI. What do you suppose Mr. McCord meant when he said "Corrected telephone data"? There was no correction made, addi-

tions, isn't that correct, on the last note, with respect to the Israeli and Chilean Embassy?

Mr. GAYNOR. He had mentioned in one of the previous letters he had made these phone calls. Then he comes back and he positively dates them as to the day and the hour of the day when he made the calls.

Mr. NEDZI. I do notice there is a difference. The telephone number is different, too.

Mr. Slatinshek.

Mr. SLATINSHEK. Mr. Gaynor, when you received these letters, you took them directly to your superior, Mr. Osborn, and called it to his attention.

Mr. GAYNOR. Yes, sir.

Mr. SLATINSHEK. I am not sure you stated what happened to the letters at that point. Did they remain in Mr. Osborn's custody or were they returned to you?

Mr. GAYNOR. I believe he retained them, and subsequently he gave them all back to me and had me prepare several sets of copies.

Mr. SLATINSHEK. When you say "He retained them," he retained them all up to a certain point in time, apparently.

Mr. GAYNOR. Up through the end of the series.

Mr. SLATINSHEK. Through the end of the series. Then at what particular point in time was this, do you recall?

Mr. GAYNOR. Well, the last one was dated the 5th of January, and I assume I turned it over to him, whatever the next working day was after it was received in my home.

Mr. SLATINSHEK. At that point, he apparently decided he would return them to you and he made a request for you to do something. Would you go on and tell us about that?

Mr. GAYNOR. To make some copies, which is my understanding he supplied to the General Counsel and I believe to the Director.

Mr. SLATINSHEK. Can you specify this date exactly? In other words, was it the 7th of January or the 8th of January? Can you give us a fix on that?

Mr. GAYNOR. I honestly can't. All I can say, it is related to——

Mr. SLATINSHEK. You said after you received the letter?

Mr. GAYNOR. Three or 4 days after, I would assume.

Mr. SLATINSHEK. At the outside it couldn't have been later than the 10 or 11th of January?

Mr. GAYNOR. I don't believe so, sir.

Mr. NEDZI. Excuse me, Mr. Slatinshek.

Why did you assume this was the last in the series?

Mr. GAYNOR. The last one I got.

Mr. NEDZI. Well, but there were a few days that had elapsed after the 29th or 30th. Why not assume that was the last one you got?

Mr. GAYNOR. I am saying now it is the last because that is the last one I received. I didn't know the flow would stop, but it did.

Mr. NEDZI. What I am trying to understand, and I think it would be helpful to the committee, is why at this point it was decided that copies of the notes should be made, rather than at the time you received the first two or three?

Mr. GAYNOR. I do not know, sir.

Mr. NEDZI. Did you assume at the time this was the last one you were going to get?

Mr. GAYNOR. No, sir.

Mr. SLATINSHEK. What direction did you get from Mr. Osborn at that point?

We are speaking about approximately the 10th or 11th of January.

Mr. GAYNOR. He directed me to make copies of the entire series, which I did, I made three copies, placed them in folders, and turned them over to him.

Mr. SLATINSHEK. Did he indicate that he had taken these letters to anyone in the chain of command above him? Or did you discuss this in any way? Do you know what happened to these letters prior to his direction to you? In other words, he has these letters, have you been satisfied they have been taken care of by Mr. Osborn?

Mr. GAYNOR. I was satisfied, yes, sir, that he would take the action he deemed proper.

Mr. SLATINSHEK. Yes. But you have no knowledge, or at that point you didn't have any knowledge of what he had done with them?

Mr. GAYNOR. Only that I can only assume he had taken them to the Director and to Mr. Houston.

Mr. SLATINSHEK. Thank you.

And so again, your directions from Mr. Osborn then were to make several copies of these and to make some sort of memorandum?

Mr. GAYNOR. I made no memorandum of any sort.

Mr. SLATINSHEK. You did nothing, just made copies?

Mr. GAYNOR. Yes, sir.

Mr. SLATINSHEK. Then what were you supposed to do with them?

Mr. GAYNOR. I handed them to Mr. Osborn.

Mr. SLATINSHEK. You turned them over to Mr. Osborn?

Mr. GAYNOR. Yes.

Mr. SLATINSHEK. That is the extent of your involvement with this material?

Mr. GAYNOR. Subsequently the three folders were turned back to me.

Mr. SLATINSHEK. Three folders?

Mr. GAYNOR. Were turned back to me by Mr. Osborn, and I held them in my safe.

Mr. SLATINSHEK. I am not sure I understand "three folders." I don't think you used that term. You mean the three copies?

Mr. GAYNOR. I made copies of each of these communications, three sets of them. I placed them in folders, and turned them over to Mr. Osborn. He returned them to me. I placed them in the drawer of my safe in my office.

Mr. SLATINSHEK. Let me get back to the original material that was sent to you, dated December 23, addressed "Dear Paul."

It starts out with the phrase:

There is tremendous pressure to put the operation off on the company. Don't worry about me no matter what you hear.

It is not signed. This is the first document you received, as I understand it.

Mr. GAYNOR. Yes, sir.

Mr. SLATINSHEK. It was an original also, to your recollection?

Mr. GAYNOR. Yes, sir.

Mr. SLATINSHEK. At that point did you surmise it was Mr. McCord who was sending you this?

Mr. GAYNOR. Knowing the dilemma he was in, yes, sir; I assumed this was from Mr. McCord.

Mr. SLATINSHEK. There is nothing in the materials that identify them that way, except the fact that obviously it refers to a problem, and apparently the Watergate, but I am not sure that I see anything in here that specifically says "Watergate." Not in so many words, for the letter simply says, "there is a tremendous pressure to put the operation off on the company."

It doesn't really mean much in a vacuum. I guess you relate this to the newspaper stories, is that it?

Mr. GAYNOR. I had no one else in my acquaintance who at that time was facing a pending court action. And the use of the phrase "company," and "operation," and so forth, I made the assumption that Jim McCord was writing these.

Mr. SLATINSHEK. My reading of this suggests—and I am giving you simply an impression—suggests that there had been perhaps some previous contact, and some previous discussion. And this is simply a follow-on?

Mr. GAYNOR. No, sir; I had no discussion whatsoever with Mr. McCord.

Mr. SLATINSHEK. That is a wrong impression.

Or anyone else connected with Mr. McCord?

Mr. GAYNOR. No, sir.

Mr. SLATINSHEK. Who might have been a third-party contact?

Mr. GAYNOR. No, sir.

Mr. ARENDS. I wonder why he didn't sign his name to any of these?

Mr. GAYNOR. That I cannot explain, sir.

Mr. ARENDS. It is unusual, isn't it, for a person to say "Dear Paul," and then not put his name at the bottom saying "Pete," or something like this?

Mr. GAYNOR. I believe he must have done this in haste because that first envelope was misaddressed.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. Mr. Gaynor, you didn't have any conversation with Mr. McCord. Did you in anyway acknowledge to him the receipt of these letters?

Mr. GAYNOR. No, sir.

Mr. BOB WILSON. Did you send him any kind of message, such as we got your mail?

Mr. GAYNOR. No, sir.

Mr. BOB WILSON. He was not sure whether it was a bad mail service at Christmastime, and he was not sure you were even getting these?

Mr. GAYNOR. No, sir.

Mr. BOB WILSON. You had no contact directly or indirectly with Mr. McCord during this period?

Mr. GAYNOR. No, sir.

Mr. WILSON. No telephone conversations with him?

Mr. GAYNOR. No, sir. This individual I referred to in the beginning may have mentioned in passing, in the course of conversation about other business, the family situation at the home. But that would be the extent of it.

Mr. BOB WILSON. When was that?

Mr. GAYNOR. I talked to that individual some time in January. I can't date it. I imagine it would have been fairly early in the month.

Mr. BOB WILSON. Which individual?

Mr. GAYNOR. This is the source of my staff, who is a longtime friend of McCord.

Mr. BOB WILSON. You talked to someone on your staff about McCord?

Mr. GAYNOR. This is a source of my staff.

Mr. HÉBERT. The witness is saying obviously he doesn't want to identify the individual about whom he is talking. That is the source. He is a Government employee in that sense of the word.

In the newspapers you say "a reliable source said."

Mr. NEDZI. Did you indicate to this source at any time you had received letters from McCord?

Mr. GAYNOR. Not to my recollection; no, sir.

The whole emphasis of this was, we accept what was coming in, but we take no action. That was my particular position.

Mr. NEDZI. Do you have any further questions?

Mr. Hogan, do you have any questions?

Mr. HOGAN. No, sir.

Mr. NEDZI. Mr. Gaynor, thank you very much.

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. Mr. Osborn.

Mr. Osborn, do you swear the testimony you are about to give in this hearing to be the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF HOWARD J. OSBORN, DIRECTOR OF SOCIAL AFFAIRS, CIA

Mr. OSBORN. I do.

Mr. NEDZI. Be seated.

Mr. Osborn, will you tell us for the record what your responsibilities are with the Agency?

Mr. OSBORN. I am Director of Security, Central Intelligence Agency.

Mr. NEDZI. Over what period of time?

Mr. OSBORN. I have been Director of Security since July 1, 1964.

For the year, approximately the year preceding that, I was Deputy Director of Security.

Mr. NEDZI. What are your responsibilities in connection with that?

Mr. OSBORN. In general, I am responsible for the security of Agency personnel, including applicants, Agency installations both here and abroad. And the security of what the Agency does and how it does it.

Mr. NEDZI. Do you have a statement on this?

Mr. OSBORN. I have one which I can read, if you prefer.

Mr. NEDZI. Would you proceed.

Mr. OSBORN. I have an affidavit.

Mr. NEDZI. You may proceed.

Mr. OSBORN. Howard J. Osborn who, being first duly sworn, deposes and says as follows:

1. I am the Director of Security of the Central Intelligence Agency.

2. The purpose of this statement is to record, to the best of my knowledge and recollection, circumstances involved in the receipt of a series of unsigned correspondence received by the Agency during the period from August 1, 1972 to January 7, 1973. The significance of these letters is that by their content and by the handwriting on two of

them, they are believed to have been written by James W. McCord, Jr., one of the defendants in the Watergate trial.

3. My first involvement in this matter occurred on the 2d or 3d of August 1972, when an envelope addressed to Mr. Helms, then Director of the Central Intelligence Agency, with no return address, and postmarked July 30, 1972 was routed to my desk from the Director's office as a routine piece of "crank mail". The envelope contained a carbon copy of a typewritten letter signed "Jim" with the name in the salutory address excised—"Dear——". After dismissing the letter as a piece of crank mail, I had second thoughts and recognized the handwriting on the envelope and the signature "Jim" on the letter as being similar to that of Mr. McCord, who formerly worked for me as a security officer before his retirement from the Agency.

4. On that same day, I showed the letter to Mr. Helms and told him that although I was not positive, I was reasonably sure that the letter had been sent by Mr. McCord. Mr. Helms agreed that it was a strong probability that the envelope had been sent to him by Mr. McCord. I told him that I felt very strongly that the letter should be turned over to the Federal Bureau of Investigation. Mr. Helms, after some reflection, decided that he would like to have a legal opinion on the matter and summoned Mr. Lawrence Houston, General Counsel of the Agency, to his office and had him read the letter. After he had finished reading the letter the ensuing discussion, to the best of my recollection, centered about whether the Agency had any legal obligation to forward the letter to the Justice Department or the Federal Bureau of Investigation. Both Mr. Helms and Mr. Houston decided that there was no such obligation and I was told to hold the letter in a secure file in my office and take no further action on it. Mr. Helms instructed me to restrict knowledge of the existence of the letter to an absolute minimum number of people.

5. The next envelope received was addressed to Mr. Paul Gaynor, a staff chief in my office and a former close friend of Mr. McCord's, on or about the 23d of December 1972. The next envelope received was addressed to Mr. Gaynor's residence and was undated but postmarked December 27, 1972. The two envelopes contained one or more unsigned typewritten pieces of correspondence which appeared to relate to Mr. McCord's involvement in the Watergate "affair". Both of these letters were handcarried by me to Mrs. Elizabeth Dunlevy, secretary to Mr. Helms, and after he had reviewed them, they were returned to me personally by Mrs. Dunlevy for inclusion in the same secure file with the first one.

6. Subsequently, on December 29, 1972 and on January 4, 1973 and January 6, 1973, three additional envelopes containing unsigned typewritten correspondence were received by Mr. Gaynor at his residence and promptly delivered to me for review and subsequent inclusion in the secure file. I did not bring these to the immediate attention of Mr. Helms but a week or so later delivered to him a folder with all copies of the letters we had received. As I recall, my request to him was for guidance as to what action should be taken with regard to them in the light of his departure from the Agency incident to his nomination as U.S. Ambassador-designate to Iran. After reviewing them, he informed me that he did not see any reason to take any action at that time, but asked that I show them to Mr. Houston and if Mr.

Houston had no objection, I was to retain them in a secure file and take no action with regard to them. As I recall, Mr. Houston was out of town at the time and it was several days before I had an opportunity to give him the folder with the copies of the letters in it for review. After reviewing them, he informed me that he had no objection to the instructions Mr. Helms had given me and I so informed Mrs. Elizabeth Dunlevy, secretary to Mr. Helms.

7. On May 14, 1973, Mr. William Broe, Inspector General of the Agency, and his Deputy, Mr. Kenneth Greer, met with me in my office in connection with an investigation they were undertaking at the direction of Mr. Schlesinger to determine if anyone in the Agency had any contact with Mr. McCord since the Watergate incident or if Mr. McCord had contacted anyone in the Agency. I informed them that, to the best of my knowledge, no one in the Agency had been in contact with Mr. McCord or at least it had not come to the attention of my office. I told them that Mr. Paul Gaynor had been a close friend of Mr. McCord's but that I was satisfied, after interviewing him, that he had not seen or talked to Mr. McCord since the Watergate incident. [I subsequently determined from Mr. Gaynor that he has not seen or talked to Mr. McCord since his retirement from the Agency on August 31, 1960.] I also told them that a Mr. [deleted], an employee of the Agency, had requested an appointment with me to discuss the feasibility of contributing to Mr. McCord's defense fund and that I thought I had convinced him that this would be inimical to the best interests of himself, the Agency and Mr. McCord. I also stated that Mr. [deleted] had called me several weeks ago to say that he was well known as a close friend of Mr. McCord's and might be called to testify at the current Senate hearings. I advised him to seek guidance in this regard from the Office of General Counsel. I do not know that he did so. I then remembered the envelopes and correspondence purportedly originated by Mr. McCord. I briefed Mr. Broe and Mr. Greer on the circumstances involved in the receipt and subsequent handling of them and made a copy of each of them and delivered them to Mr. Broe the next day. I also gave a copy, at the same time, to my immediate supervisor, Mr. Harold Brownman.

8. A few days after this, I was contacted by Mr. John Greaney, Office of the General Counsel of the Agency, who asked me about any official or unofficial contacts anyone in the Agency had had with Mr. McCord. I mentioned the correspondence and suggested that he seek guidance from Mr. Lawrence Houston in this regard. Subsequently, with Mr. Houston's concurrence, Mr. Greaney came to my office and reviewed the original file containing the six letters. Mr. Greaney indicated that he would recommend to Mr. Houston that they be made available to the Justice Department and on May 22, 1973, Mr. Houston asked for a copy of the letters. On this same date, I was instructed by Mr. James R. Schlesinger, Director of the Central Intelligence Agency, to participate in certain congressional briefings on this matter and to prepare this affidavit.

9. Up to May 13, 1973, when I informed Mr. Broe and Mr. Greer of the envelopes and their contents, the only persons knowledgeable of the existence of them, in addition to me, were Mr. Helms, Mrs. Elizabeth Dunlevy (his secretary), Mr. Houston, Mr. Paul Gaynor of my staff, Miss [deleted], my secretary who prepared the file, Mr. Leo J.

Dunn, my executive officer, who knew of the first envelope and correspondence but not of subsequent envelopes.

10. The only other matter pertinent to this particular matter was the fact that an intermittent source of this office, who was a close personal friend of Mr. McCord's, has relayed to Mr. Gaynor and his staff certain information concerning the personal situation of Mr. and Mrs. McCord during and after the time he was in jail and since he has been released on bond. This source has been utilized by this office for many years, and by my direction no effort was made to solicit information from him about Mr. McCord. The information provided was done so purely gratuitously.

Mr. NEDZI. Mr. Osborn, you say the first letter was routed to your desk from the Director's Office as a routine piece of crank mail?

Mr. OSBORN. Yes, sir.

Mr. NEDZI. What is the routine crank mail?

Mr. OSBORN. Each Director, in my experience, traditionally receives from 200 to 500 pieces of mail addressed to them, some with return addresses, but just cranks——

Mr. NEDZI. Congressmen receive them, too.

Mr. OSBORN. Turn off the machine, and all this sort of thing. If they are received and processed through the Director's security staff, the security staff is charged essentially with his protection, they report to me careerwise, and get guidance from me, but the administrative force report to him. They have a file of known cranks, particularly those involving threats, and so forth, but with a no-return-address. The letter itself was somewhat incoherent, the biggest routine, we put it on a routing slip, it came to my executive officer, Mr. Dunn, that is how he knew about it. He thought it was a piece of crank mail. But I usually see all crank mail addressed to the Director. I looked at it, tossed it in my "out" box, and on second thought, reached over and took it back, because I had seen that "Jim" many, many times. Mr. McCord worked for me during the entire period I was Deputy Director and Director of Security up to the time of his retirement. That is how that particular piece was handled.

Mr. NEDZI. Who opens the Director's mail?

Mr. OSBORN. If it is addressed to him, usually his secretary Mrs. Dunlevy.

Mr. NEDZI. She, in turn then, determines whether it is crank mail?

Mr. OSBORN. He looked at it, no return address, "Jim," who is Jim? Sent it over to the Director of Security's staff. They processed it to see if there are any other Jims in the crank file. There were none apparently, so they routed it down to me.

Had I treated it normally, had I not recognized the signature was something funny, giving the impression it was McCord, I would have sent it to my deputy for personnel security who handles all crank mails and it would have been contributed to Mr. Helm's crank file, which is now about 4 feet high.

Mr. NEDZI. Do you know whether there is any other mail in that "crank" file that might be pertinent to this affair?

Mr. OSBORN. Since May 14, we have exhaustively checked Mr. Helm's crank file, including the card file up in the Securities Section. There is no indication—no record of anything.

Mr. NEDZI. At the time you took the letter to Mr. Helms, you told him that you thought the letter should be turned over to the FBI?

Mr. OSBORN. Yes, sir.

Mr. NEDZI. Why did you say that?

Mr. OSBORN. Because my office, as soon as the Watergate incident broke, on June 17, 1972, we had been working very closely with the FBI, my office—specifically Mr. Dunn and Mr. Kuhn in my office—in making available to the Bureau any and all people that we knew had any contact with McCord. Irrespective of certain talk around the town, relationships between the Agency's Office of Security and the Federal Bureau of Investigation have been 10,000 percent. I have always given them everything. I have never held anything from them.

I thought since this had something to do with the defendant, who may have been arrested, and soon to be placed on trial—

Mr. NEDZI. Why did you give it to them?

Mr. OSBORN. I thought it was more important for Mr. Helms to see it first. Because of his intense desire to keep the Agency out of anything involved in the Watergate, I knew he was very much interested in it. I thought it was incumbent on me to take it to him first.

Mr. NEDZI. Did you consider it an order not to give it to the FBI?

Mr. OSBORN. He didn't specifically say not to give it to the FBI, but he gave me an order to hold it in the secure file and keep it down to the minimum number of people who knew the statistics.

Mr. NEDZI. In light of your relationship, then, I gather from what you say you felt that you had some obligation to give this to the FBI?

Mr. OSBORN. I did; yes, sir. But, then, I think he probably had other factors, Mr. Houston, who will testify—

Mr. NEDZI. Were you ever told why it should not be given to the FBI?

Mr. OSBORN. I participated—I stayed in and remained in the conversation when Mr. Houston and Mr. Helms discussed the legal aspects of it.

At the time, I don't think I really agreed with, but, you know, I worked for Mr. Helms—he was my boss.

I would do the same thing with Mr. Schlesinger.

Mr. NEDZI. When were you first notified to review the records of your section in order to make a determination whether there was anything related to the Watergate to be brought to the Director's attention?

Mr. OSBORN. I was first notified this by my superior, Mr. Brownman, who had gotten his instructions from Mr. Schlesinger, I believe, in a meeting, that we were to come up with anything and everything that had anything to do with the Watergate affair, or anything and everything that was possibly construed as being outside the provisions of the Security Act of 1947. This was communicated to me at a staff meeting, it must have been the 10th or 11th of May.

I immediately went to work and dug into my safe and produced a report dated the 17th of May, which I believe you have seen, Mr. Nedzi.

I did not include in that report the business about the letters, because I had given them to Mr. Broe, and I assumed they would be covered in his. I so told Mr. Brownman when I delivered to Mr. Brownman on the 15th the copy, the same copy of the letters I have given to Mr. Broe.

I told Mr. Brownman, I said, "I will not include this in my family jewels." He said, "Mr. Broe undoubtedly will cover that."

Mr. NEDZI. This was on the 15th of May?

Mr. OSBORN. Yes, sir.

Mr. NEDZI. When did you decide that these letters were pertinent to Mr. Schlesinger's order?

Mr. OSBORN. By the exact day on the 14th of May when Mr. Broe asked me the questions about the McCord contacts, to my knowledge.

I gave him Paul Gaynor, I gave him [deleted], and bang, I remembered the letters; I had not thought about those letters since my last conversation concerning them with Mr. Houston, and that must have been around the 15th of January up to the 14th of May.

Mr. SLATINSHEK. Mr. Osborn, for clarification of the record, Mr. Gaynor had indicated he had turned these letters over to you and at a point in time approximately identified as January 10 or 11 you ordered him to make copies of them, and you returned them to him.

Mr. OSBORN. That is correct.

Mr. SLATINSHEK. Why did you do it at that particular point in time?

Mr. OSBORN. Because I wanted to meet with Mr. Helms and Mr. Houston and seek guidance as to what I should do with the letters in view of the Director's pending departure. The reason for the three folders is very simple. In a meeting of that nature it is very convenient for Mr. Helms to have one folder, for me to have one, for Mr. Houston to have one, so we can all read the thing.

Mr. SLATINSHEK. I refer to page 3 of your affidavit, paragraph 6, in which you indicated that on January 4 and January 6 three additional envelopes had come in. In the course of your narrative you indicated Mr. Helms was scheduled to go to Iran. I guess you were speaking of 10th or 11th January?

Mr. OSBORN. Yes, about that time.

Mr. SLATINSHEK. You don't say that in the affidavit?

Mr. OSBORN. You see, Mr. Slatinshek, what triggered my decision to take the prepared three folders and meet with Mr. Helms and Mr. Houston was really twofold. One, I had received three envelopes in a very short period of time which he hadn't seen or Mr. Houston hadn't seen. Second, I felt I should get guidance from Mr. Helms before he left. Those were the two motivating factors for the preparation of the folders, and the meeting of the three of us, which didn't transpire because my colleague Mr. Houston was out of town.

Mr. SLATINSHEK. Yes. But you did meet with Mr. Helms on or about the 10th, 11th or 12th of January, somewhere in that timeframe?

Mr. OSBORN. Yes, I did.

Mr. SLATINSHEK. We can nail it down a little better with Mr. Houston because he apparently was out of town at the time?

Mr. OSBORN. It is my recollection he was. Out of town or ill, or not available.

Mr. SLATINSHEK. Mr. Osborn, your affidavit is very helpful in respect to this particular correspondence.

However, the subcommittee is concerned with the total involvement of CIA or possible involvement in the Watergate exercise.

Since you are Director of Security, can you summarize in general form what possible involvement your Office had in connection with this Watergate, other than in a continuing effort to assist the FBI?

Mr. OSBORN. Well, obviously the Agency had nothing to do with the incident itself—obviously. I am absolutely convinced of it, positively convinced of it.

When it broke, I happened to be at a conference in [deleted] of all office heads in my immediate directorate. I was called by my Deputy at [deleted] at 7 o'clock, just as we were leaving. I believe on a Saturday night. I don't have that date, but I can get it for you very precisely [June 17, 1972].

I returned almost at emergency speed to headquarters. I got briefed. I contacted Mr. Helms. I received instructions from him to begin immediately to determine who had been associated with Mr. McCord at any time, and I had immediate recollection that evening, certain things that I knew, a couple of people I had referred to for jobs, I contacted them, telephonically, and told them, you know, what has been your contact? How many times, under what situation, and for what purpose?

I sealed off as many as I could, and the next day my Office not only with the approval but the instructions of the Director, began a thorough and exhaustive investigation to see if we could find out who and when had any contact with McCord or any of the other defendants. This included Howard Hunt and everybody else.

This we did on a continuing basis over a period of months, and as we turned them up, we would make them available to the Bureau. The exact procedure, as I recall, because of the importance of it, I think this was Mr. Helms' instructions, was that once we had a lead for the Bureau, or once we had information to give the Bureau, I was to prepare a memorandum to the Bureau with my signature, since that is the way much of the correspondence goes to the Bureau from me, and clear it with Mr. William E. Colby, who was Executive Director-Comptroller at the time. Once he cleared it, he would simply hand it back and I would let it go—mail it.

Now, entirely apart from this—

Mr. SLATINSHEK. May I interrupt you at this point?

Mr. OSBORN. Yes.

Mr. SLATINSHEK. At this time had you ever prepared a memorandum and sent it through to Mr. Colby which resulted in a change in what you were going to send to the FBI, or restriction?

Mr. OSBORN. Minor changes. No restrictions whatsoever.

Now, Mr. Karl Wagner, who was a special assistant to General Cushman, became aware of this, the fact I was doing this, he mentioned it at the Director's staff meeting I am sure. He called me and said he had something he wanted to tell me but he had to check with the Director first.

The Director called me on the telephone that same day, and said, "about Karl Wagner, you forget about that, I will handle that. You take care of the rest of it."

Mr. SLATINSHEK. When you speak of the Director you mean Mr. Helms?

Mr. OSBORN. Mr. Helms, yes.

I knew nothing about that burglary aspect, as I call it now, not even at the beginning. I was specifically excluded from it, and I am delighted I was.

Mr. NEDZI. What did you think then about the matter? Had you any suspicion as to what was being referred to?

Mr. OSBORN. No, sir, I did not. I was concerned naturally, because I didn't want the Agency involved in the Watergate affair.

Mr. NEDZI. Do you have suspicions now as to what was involved?

Mr. OSBORN. I know now.

Mr. NEDZI. What was it?

Mr. OSBORN. It was the business of the wig, the recorder, and the whole bit.

Some time after my call from the Director, Mr. Colby called me and asked me if I had a relatively senior security officer, and I think the term he used "Who I would put my hand in the fire for," who is capable, discreet, that could work for him directly on a special phase of the Watergate incident. I made available one of my most competent officers, Leo Dunn.

He actually did all the work in Colby's office, did all of the dictations to Colby's secretary and worked like hell for a couple of weeks. I know now, because after it broke, Mr. Dunn told me, but up to that time, this is not unusual in the Office of Security, he didn't mention one damn thing to me about what he was doing.

Mr. NEDZI. What time period?

Mr. OSBORN. I wouldn't have let him, as a matter of fact, because this was something—

Mr. NEDZI. Over what period of time was this?

Mr. OSBORN. Oh, this must have been a couple of months.

Mr. NEDZI. In what year?

Mr. OSBORN. 1972.

Mr. NEDZI. What months?

Mr. OSBORN. Gee, it is awfully hard to remember. I can recover that by talking to Mr. Dunn, if you like. I didn't know this was going to come up, I'm a little unprepared.

Mr. NEDZI. Would you submit that for the record?

Mr. OSBORN. Yes, indeed. [See p. 201.]

Mr. NEDZI. At the present time, can you generally recall? Was it in the summertime, June, or July?

Mr. OSBORN. I would rather give you very specific dates, when he performed these services. I can get them from him very quickly. As a matter of fact, Mr. Cary, would you call Skip and tell him I told him to tell you the exact dates he was employed by Mr. Colby in the Watergate affair?

Mr. SLATINSHEK. Was there any subsequent involvement of your security office with this Watergate that would be—

Mr. OSBORN. Yes, sir, I participated and prepared an affidavit, which I believe this subcommittee has received, on the psychological profile of David Young. I was David Young's initial contact, because I had been doing a lot of business with him on unauthorized disclosures of classified information.

The first contact, as I recall, he called me and said that Mr. Kissinger, Mr. Ehrlichman, had been very impressed with the psychological profile the Agency had prepared on Fidel Castro, and would we do one on Ellsberg?

I told Mr. Young that the preparation of the psychological profile on Fidel Castro was one thing. The preparation of a profile of a U.S. citizens currently in legal involvement with the U.S. Government was another. And that I couldn't even entertain such a request unless I

got the specific approval of the Director, which the Director reluctantly had given.

I then established the requirement. I served as a middleman up to transmission of the first assessment, after it was approved by Mr. Helms. And then it was decided by Mr. Young that we better—if we have direct touch with the people that are doing it, I put him in touch with Berney, and that was the end of it.

Mr. SLATINSHEK. Have you before since ever performed a similar type of profile, a profile study on a U.S. national?

Mr. OSBORN. Not to my certain knowledge. This is the only one I have any knowledge of.

Mr. SLATINSHEK. Would you give the committee other information as to the involvement of your office with events surrounding the Watergate affair?

Mr. OSBORN. We started 2 days ago, or 3 days ago, I guess on the 23d of May, we are turning the Agency upside down, particularly my office, in an effort to dredge up anything, housewife, any person, that had any contact with McCord, anything. We are literally going through every safe in the Agency.

Mr. SLATINSHEK. Going back to the letters that you received from Mr. McCord and addressed to Mr. Gaynor with an effort to apparently keep the company informed as to what was going on, suggesting devices that could be used by the company, that is at least the way I would read it. Did you do anything about it at all? Did you attempt to pursue any of these suggestions that were contained in the letter, for instance the question of the phone calls?

Mr. OSBORN. None whatsoever.

Mr. SLATINSHEK. None at all?

Mr. OSBORN. The Director's instructions to me were specific, take no action. Maybe if I had taken some action I would have remembered the damn thing a little earlier.

Mr. NEDZI. Have you had occasion to deal with David Young on a number of occasions?

Mr. OSBORN. Oh, very frequently.

Mr. NEDZI. What did the contacts involve?

Mr. OSBORN. With the exception of the contact I just described to you they were all in the nature concerning unauthorized disclosures. I am Director of the Security Committee of the U.S. Intelligence Board. I made available to Mr. Young many of the studies, and damage assessments that we had done in the past.

I put him in touch with knowledgeable people in the Agency who are concerned with unauthorized disclosures.

Mr. NEDZI. Is this for the purpose of structuring a plan to combat this or does it involve specific cases?

Mr. OSBORN. That is the direct impression I got.

Mr. David Young was first introduced to me, not personally, but by telephone, by Mr. Helms who said that Mr. David Young had been detailed to Mr. Littman's staff from Dr. Kissinger's staff to work on security, and the implication was very clear to me, particularly work on unauthorized disclosures of classified information.

I then called Mr. Young, and made an appointment. He came over. I briefed him on our experience. He established some requirements—

Mr. NEDZI. Can you in a sentence or two sentences tell us what that briefing involved? What was the general briefing?

Mr. OSBORN. It was exclusively devoted to the experience that the Security Committee of the U.S. Intelligence Board had in preparing damage assessment, and investigating, if you will, unauthorized disclosures of classified information.

I never talked to David Young about anything else other than psychological profile.

Mr. NEDZI. Were you confronted by him with specific instances of unauthorized disclosures?

Mr. OSBORN. Yes, upon occasion he would call me and say "Have you seen an article by such and such in the New York Times? Could you have your people prepare an evaluation of it? I believe it came out of such and such a document, intelligence document."

I would turn this over to my staff, who have had a lot of experience. They would prepare a check sheet, what is in the article, what is in the intelligence report, and I would compare them to see how bad a leak it was, and return them to him.

Mr. NEDZI. Was there ever in your reports an inclusion of any names who might have been involved?

Mr. OSBORN. Not to my knowledge.

Mr. NEDZI. There were no investigations conducted on individuals—

Mr. OSBORN. On individuals in the intelligence community.

Mr. NEDZI. You say there were not?

Mr. OSBORN. I don't believe I gave him any names.

Subsequently, in connection with the leak in The New York Times of a Presidential advisory memorandum on the SALT talks, I received a telephone call from Mr. Egil Krogh and was instructed to provide a polygraph operator and a machine on detail to the Security Department of State to polygraph three State Department employees and one Defense Department employee under the aegis of State Department security. They ran. I was just giving them the equipment—the paint and the brush.

Mr. NEDZI. Do you have any questions, Mr. Bray?

Mr. BRAY. Pardon me, I didn't hear your earlier testimony, but what was their purpose in wanting that polygraph?

Mr. OSBORN. The State Department and Defense Department, as I recall, had conducted their own investigation of people who had access to this particular memorandum.

Mr. BRAY. Which memorandum is that?

Mr. OSBORN. Presidential advisory memorandum on the SALT talks.

I am speaking very definitely from memory now, because I am not prepared on this. But I believe it was a memorandum from the White House to Mr. Gerald Smith.

Mr. BRAY. There was a leak about that?

Mr. OSBORN. Yes, an immediate leak by Beecher in The New York Times.

Mr. BRAY. That would be a serious—

Mr. OSBORN. It was a very serious leak, in my opinion, and the White House was very upset about it.

Mr. BRAY. There was no criticism of it, them being worked up over the leak business, they should have been?

Mr. OSBORN. I saw nothing wrong in it, I am simply reporting it as it is. The only contact I had with Egil Krogh, other than one meeting I attended in Mr. Ehrlichman's office with Mr. Helms, Mr. Krogh, and Mr. Young being present. They talked about the importance of getting to the bottom of leaks.

Mr. BRAY. Who is Egil Krogh?

Mr. OSBORN. He is staff assistant—was the staff assistant to Mr. Ehrlichman, and was featured very prominently in all of these.

Mr. BRAY. I remember hearing the name.

Did they ever determine where the leak was, to your knowledge?

Mr. OSBORN. Not satisfactorily; no, sir.

Mr. NEDZI. Do you have any questions, Mr. Hogan?

Mr. HOGAN. Yes, thank you, Mr. Chairman.

Mr. Osborn, it has been reported in the press yesterday there was a relatively recent breakdown in communications between the FBI and the CIA.

Mr. NEDZI. The President said so.

Mr. HOGAN. Yes, sir.

Mr. OSBORN. There was a period of 2 to 3 years, but this never affected the relationships that my office had with them.

Mr. NEDZI. When was the breakdown?

Mr. OSBORN. 1971 through roughly 1972 and one-half.

We have established relationships with friends in the Bureau that we have known and trusted and we went on with our regular business. We didn't have any personal liaison officer.

Mr. HOGAN. That is my question, Mr. Osborn. You said from time immemorial your office has had excellent relationships with the FBI.

Mr. OSBORN. That is right. It didn't change during that period. It was more formal, but it didn't change in terms of what we got from them and what we gave them.

Mr. HOGAN. This is my last question, Mr. Chairman.

Mr. OSBORN. In this regard, Mr. Hogan, understand I am speaking for my own office.

Mr. HOGAN. That is correct, you are within the CIA.

Mr. OSBORN. Yes, I am one very small segment of the CIA—getting smaller.

Mr. HOGAN. Regarding this question of security leaks, and looking into them, has it ever bothered you that maybe the CIA is getting beyond the sphere of its mission as set down in the National Security Act?

Mr. OSBORN. Not in the investigation of security leaks of unauthorized disclosures. I consider this to be strictly within the provisions of Public Law 1947, regardless—

Mr. HOGAN. Even though it involves strictly a domestic matter?

Mr. OSBORN. You know, it involves a domestic matter, even though it does, the Director has the responsibility to protect public sources.

Mr. HOGAN. Do you agree with that, Mr. Houston?

Mr. HOUSTON. Yes.

Mr. SLATINSHEK. Mr. Osborn, your statement points out you checked with the Director and subsequently with Mr. Houston with respect to turning over this data to the FBI, and you were told not to.

Did you dictate or prepare a memorandum for record or some document which reflects your conversation with Mr. Helms?

Mr. OSBORN. I did not, Mr. Slatinshek. If I made one revelation out of this, I am never going to have any conversation of any kind with anyone unless I record it in a memorandum. The ones you want, you can never find when you need them.

Mr. NEDZI. Mr. Osborn, thank you very much.

Mr. OSBORN. Thank you, sir.

Mr. NEDZI. I would now like to have Mr. Houston.

Mr. Houston, do you swear the testimony you are about to give in this hearing to be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HOUSTON. I do.

Mr. NEDZI. I note you submitted an affidavit to the committee, to the subcommittee. Will you read your affidavit at this time?

STATEMENT OF LAWRENCE R. HOUSTON, GENERAL COUNSEL, CENTRAL INTELLIGENCE AGENCY

Mr. HOUSTON. Yes, sir.

1. I am the General Counsel of the Central Intelligence Agency and have held that position since 1947. To the best of my recollection, it was early in August 1972, that I was asked to come to the office of Mr. Richard Helms, the Director of Central Intelligence. On arrival I was handed by Mr. Howard Osborn, the Director of Security of the Central Intelligence Agency, a letter which Mr. Osborn informed me had been received by the Director's office. There was either no addressee or the name had been excised. Also, there was no full signature although the name "Jim" was in handwriting at the bottom of the page. The letter was a somewhat incoherent account of events apparently dealing with the people arrested in June 1972, in the Watergate break in. I discussed the letter with Mr. Helms and Mr. Osborn and we agreed there was a strong probability that it was from Mr. James McCord, although this was not certain at the time.

2. In my years as General Counsel for the Agency I have been responsible for handling a large number of cases where people indicted for criminal acts of a wide variety indicated or threatened in one way or another that they would claim backing by the Central Intelligence Agency as their main defense or part of their defense. In many cases we had estimated that this was a bluff and by waiting out the situation the bluff had collapsed. In other cases an actual attempt to involve the Agency had occurred and we had countered either by providing the prosecuting attorney with proper documentation or by presenting witnesses to refute the claim of Agency involvement. I, therefore, looked on this letter as either warning us that we could expect such a bluff or warning us that there might be an actual attempt to involve the Agency in the defense of those arrested in the Watergate incident. Since I, as well as the Director of Central Intelligence and others concerned, was convinced that the Agency had no involvement in the Watergate entry, I felt that in the end we could counter any attempt to bring the Agency into the defense. In the event it was a bluff our experience had been that the best way to call the bluff was to ignore it completely. I, therefore, advised the Director of Central Intelligence that we had no legal responsibility to pass the letter on to any other authorities and that we would work with the U.S. Attorney if and

when the defense actually made a formal attempt to involve the Agency at the trial. The Director agreed and I returned the letter, as I recall, to the Director of Security.

3. I cannot recall whether I knew of or saw the subsequent letters that appeared to have been sent by Mr. McCord concerning the Watergate trial situation. I may have been told that there were more but I cannot remember this being done. Mr. Osborn believes he showed me the complete file early in 1973 and this may well be although I have no recollection of it. By that time the trial was over and no effort had been made by the defense to involve the Central Intelligence Agency and I thought the episode was closed.

4. On May 15, 1973, I received word from General Walters, Deputy Director of Central Intelligence, that he had had an interview that day with Mr. Earl Silbert, Principal Assistant U.S. Attorney, and Mr. Silbert had asked him to obtain the answers to certain questions. The first as written out by General Walters in his own handwriting, was: "Did anybody from the Agency, directly or indirectly, have contact with McCord or any other defendant at any time since their arrest on June 17, 1972, officially or unofficially." As I did not know the answer and the question of the McCord letters did not come to mind, I asked a member of my staff, Mr. John K. Greaney, to obtain the answer from the Office of Security. On Wednesday, May 15, 1973, he reported to me that he had been informed by the Office of Security that no one had any official contact with Mr. McCord after his retirement in 1970 and the only other contacts were the letters received in 1972 and early 1973 which appeared to have been written by Mr. McCord. I called Mr. Osborn, the Director of Security, I believe on that same day, and said that since Mr. Silbert had told General Walters that he wanted to see all of the papers in our Watergate file I had better discuss these letters with him. Mr. Osborn agreed. I also called Mr. William E. Colby, Executive Secretary, CIA Management Committee, and mentioned the letter file to him and said I was going to discuss it with Mr. Silbert. Mr. Colby also agreed.

5. I called Mr. Silbert and with first his absence from his office and then by absence from my office, I did not talk with him until Thursday evening, May 17, 1973, and invited Mr. Silbert out to go through our files, which he thought would be useful. I specifically informed him that as a result of his question to General Walters about contacts with McCord we had come upon the file of McCord letters which on retrospect appeared to be warning us of an attempt to use the Agency as a defense coverup. Mr. Silbert said he would be interested in seeing the letter file and I said it would be available to him when he visited us. We subsequently set an appointment to meet on these matters on May 24, 1973.

That is the end of the statement. We were going to meet at noon that day, I got word he canceled the appointment.

Mr. NEDZI. So at this time he does not have these letters, to your knowledge?

Mr. HOUSTON. He knows of them, he has not seen them, nor has he asked any further questions.

Mr. NEDZI. Has he been apprised of what they are?

Mr. HOUSTON. I described them in that telephone conversation.

Mr. NEDZI. Are you speculating, as I am right now, that the fact that Mr. Cox has come into the picture may have something to do with this?

Mr. Houston. That, together with the newspaper story I think yesterday morning that they had almost resigned, I assume that is why they canceled the meeting.

Mr. NEDZI. Mr. Houston, part of this whole incident that troubles me is your conclusion not to pass the letter on to the FBI at the time it was drawn to your attention.

As a lawyer, I think I agree with you that you had no direct legal responsibility at that time to do this. However, in the light of what was occurring, it seems to me that the reasonable thing to have done would have been to immediately notify the FBI that such a letter was from a defendant or potentially a defendant associated with matters they were investigating.

Mr. Houston. I would be glad to expand on my thinking and reasoning at the time, Mr. Chairman.

Mr. Osborn has his normal liaison with the FBI which he has explained, and it is a very effective liaison.

I normally don't get into the picture until the case is getting into court. Once there is a court case, and we are faced with possible involvement in it, then it becomes my responsibility and I normally deal directly with the Department of Justice.

So I felt that this now—we were now confronted with a situation where the case was going to court. Before this came up, in my own office, we had talked about the possibility that we might be involved, there might be an attempt to involve us by the defense.

We thought it very unlikely. We thought it would be a very stupid move for the defense to make, because we had, we thought, such a clean counter to it.

Also, at this time, it was very obvious from the newspapers that any information that went to the prosecutor's office was appearing in the papers very shortly after that.

And since the last thing we wanted to do was interject ourselves into the case and stir up newspaper stories and rumors that we had been involved, I felt that I wanted to deal with this matter with the Department of Justice and the prosecuting attorney when the issue arose, as it subsequently did, when my Deputy met with Mr. Silbert in early October, at which time Mr. Silbert said he feared there would be an attempt to involve us in the defense. My Deputy, John Warner, said we didn't think this would happen. Mr. Silbert then put a number of questions on stories he had heard that he thought might involve us. This led to the preparation of the elaborate report to those questions, and further information which we took down, Mr. Helms and I took down, to the Attorney General, and he then called in Mr. Petersen. I went over with Mr. Petersen the whole report in answer to Mr. Silbert's question, in which we felt we had demonstrated quite clearly that we had no connection whatsoever with the Watergate and could not with any effectiveness be involved in the defense.

I also expressed my fear to Mr. Petersen, and directed it to Mr. Kleindienst, that if all this information went down to the Prosecutor's office, it would almost certainly come out in the press like all the

others did. They all agreed. And so I went over the material in detail with Mr. Petersen, and he said :

All right, I will hold it here, I will call Mr. Silbert in and brief him on this so he can not be caught by surprise at the trial. But I agree it should be held here until the issue should come up in the trial. If the issue is raised by the defense, the attempt to involve CIA, we will then come forward and present a witness in rebuttal, but until that issue is raised, we think we should stay in the background.

As you note——

Mr. NEDZI. Are you saying you did turn this information over to the Department of Justice?

Mr. HOUSTON. I did not have—in that report I made—I did not have these letters, sir.

I did not have the McCord letters.

But I think I tried to explain to Mr. Silbert, on his own he had come up with the thought we might be involved in the defense in his approach to my Deputy, Mr. Warner.

Mr. NEDZI. When was this?

Mr. HOUSTON. This was early October. During the next couple of weeks we completed—the committee has copies of this?

Mr. O'NEILL. Yes, sir, on the first hearing on the 11th.

Mr. HOUSTON. This is a report we put in which Mr. Helms and I took to Mr. Kleindienst on the 24th of October. You have copies of the questions and answers.

There was subsequent material given in December.

Mr. NEDZI. I still have difficulty excusing your office in not turning over this material to the FBI and to the Department of Justice at the time it was suggested that it be done so by Mr. Osborn.

Mr. HOUSTON. In retrospect I think probably you are right, sir. But at the time——

Mr. NEDZI. Isn't this really suppressing evidence?

Mr. HOUSTON. No, sir, I did not consider it evidence at all.

In the past——

Mr. NEDZI. It was not evidence of Agency involvement, but it was certainly information that could have very well been useful to the conduct of a complete investigation, and I think that the Agency's obligation goes beyond just defending itself.

Mr. HOUSTON. Sir. I would like to ask you to take yourself back to the situation that existed then, when we did not know of the wider ramification of this at all. We were faced with a rather typical problem we had many times before, of a case being prepared for prosecution, and in many cases prior to this we get an indication from somewhere, the defense counsel leaks to the press, I don't think we have ever had an anonymous letter before, but the defense is thinking of involving us.

Mr. NEDZI. What kind of evidence did you have in those circumstances that you kept back?

Mr. HOUSTON. I didn't keep any evidence back. If it looked like we were going to be seriously involved we would go to the Department of Justice——

Mr. NEDZI. You kept a letter back. Were there other letters kept back during prosecutions underway?

Mr. HOUSTON. What letter, sir?

Mr. NEDZI. The letter Mr. Helms received from Mr. McCord.

Mr. HOUSTON. I didn't think it was pertinent.

Mr. NEDZI. You kept it back.

Mr. HOUSTON. I said I didn't think——

Mr. NEDZI. Didn't you keep it back?

Mr. HOUSTON. I said there was no legal——

Mr. NEDZI. Didn't you keep it back?

Mr. HOUSTON. Not deliberately keep it back.

Mr. NEDZI. Who kept it back?

Mr. HOUSTON. All right, sir, at the time——

Mr. NEDZI. It wasn't given to the FBI or the Department of Justice.

Mr. HOUSTON. That is correct. At the time the first letter was considered I said I didn't think we should send it forward, and Mr. Helms agreed.

Mr. NEDZI. That is keeping it back.

Mr. HOUSTON. All right, it is keeping it back. I saw no purpose for it going forward at that time. I saw no purpose it could serve. Any information being sent forward was being made public.

Mr. NEDZI. Were you conducting the investigation of this matter, or was the FBI?

Mr. HOUSTON. The FBI. We were responding to all their specific requests for information.

Mr. NEDZI. Didn't you consider it holding a letter of this sort back, sent by one of the defendants, not pertinent?

Mr. HOUSTON. Not pertinent to the FBI's interest. I thought this would come in when we got together with the Department of Justice.

Mr. NEDZI. Why wouldn't you let the FBI make that determination?

Mr. HOUSTON. Partly because, sir, I did not believe that we wanted to interject ourselves where people would think maybe we were involved. I wanted to wait until the issue was raised so we could cope with it properly at that time.

Mr. NEDZI. Regardless of whether information you had might have assisted the prosecution in its investigation of the case?

Mr. HOUSTON. I didn't see how it could assist the prosecution.

Mr. NEDZI. Was that your function to make that determination?

Mr. HOUSTON. I think it was under the circumstances, in my best judgment. My judgment can be wrong, sir—in retrospect, quite possibly it was. But under the circumstances that existed at the time, I think it was the proper determination.

Mr. NEDZI. How would this involve the Agency, in your judgment, looking at it in retrospect?

Mr. HOUSTON. Almost any information, in fact all information, we supplied to the prosecutor's office was reaching the press.

Mr. NEDZI. All right, suppose the press had received a copy of this letter? Suppose Mr. Helms had released it to the press, that James McCord had sent a letter to the Director of Central Intelligence signed "Jim," what would have happened?

Mr. HOUSTON. The probability, in my opinion, was the newspapers would say, "Ah, now we have some indication the CIA is involved in the Watergate." The stories would be about us——

Mr. NEDZI. Why should they conclude that from this particular letter?

Mr. HOUSTON. Because they were obviously looking for any possible clue they could get to connect us with the Watergate case. It was obvious from their other investigations around town.

Mr. SLATINSHEK. Mr. Chairman.

Mr. Houston continues to refer to handing this over to the prosecutor or to the President. We are talking about handling this information over to the FBI.

It is my understanding that the FBI had received some considerable confidential information of this kind, and they don't attempt to funnel it to the press, and they don't make it available to the prosecution until after they have completed their investigation.

Isn't that the usual procedure?

Mr. HOUSTON. That is the usual procedure, but they obviously—

Mr. SLATINSHEK. I can't understand your apprehension, sir.

Mr. HOUSTON. This is not in the sense of classification, Mr. Slatinshek, we couldn't put a classification on this.

Mr. SLATINSHEK. You transmit it to the FBI, the FBI receives it as a confidential communication from you, and it goes from there. I think we are all familiar with the method of operation, and there is no point playing with words on this.

You are assuming that the moment you transfer this information to the FBI you are going to get it into the press. I don't understand how you reach that judgment.

Mr. HOUSTON. The only utility of this, if there were any, would be for the prosecution.

And all the information going to the prosecution—

Mr. SLATINSHEK. You were not asked to give this to the prosecution, you were asked to give this to the FBI.

Mr. HOUSTON. I was not asked to give it, I was asked whether we had to give it, and in my opinion I said "No."

Mr. SLATINSHEK. Your opinion, in my judgment, was very, very poor.

Mr. HOUSTON. We can differ on that, Mr. Slatinshek.

Mr. SLATINSHEK. Yes, I understand.

We have ascertained in your affidavit that you had looked at the first letter, but you indicate that you don't recall looking at the others.

Mr. HOUSTON. That is my best recollection. I may have been told, meeting Mr. Starbird, or someone, in the hall, that the word had come in.

Mr. SLATINSHEK. Let's assume you had seen the other letters. Would it have changed your judgment whether or not this material should go to the FBI?

Mr. HOUSTON. I don't think it would have, Mr. Slatinshek, because by the time they came in we were already in touch with Mr. Silbert, dealing with this problem of whether or not we were going to be involved with the defense.

Mr. SLATINSHEK. My question is, at this point if you had seen these letters, would you then have sent them to the FBI?

Mr. HOUSTON. I can't say. I don't know why I would change my position. I might look more positively and taken them up with Mr. Silbert or Mr. Petersen. We normally deal with the Department of Justice, not the Bureau.

Mr. SLATINSHEK. In your affidavit you indicate that you don't recall seeing these subsequent letters, yet Mr. Osborn indicates that his best recollection is that he did actually show them to you, and that he subsequently so informed Mrs. Dunlevy, Mr. Helms' secretary.

Did you attempt to refresh your recollection with Mrs. Dunlevy as to whether or not Mr. Osborn has so indicated that he had shown this to you?

Mr. HOUSTON. No; I have not. I don't question Mr. Osborn's statement. I just say I have no recollection of it. I have no record in my office of it. I don't make record of things like that. I just have no recollection.

Mr. NEDZI. Do you have any questions, Mr. Hogan?

Mr. HOGAN. Just one question, Mr. Houston.

You didn't see anything wrong with having these previous contacts with Mr. Petersen and Mr. Kleindienst in connection with the Watergate case, correct? You talked about going to the Department of Justice and you were—

Mr. HOUSTON. After the question had been raised by Mr. Silbert.

Mr. HOGAN. Yes, I understand that.

But you were perfectly willing to turn the information over.

What in the world would have been wrong with going right back to them with these letters and saying, "Now we have this information, Mr. Kleindienst or Mr. Petersen, for your information"?

Mr. HOUSTON. If I thought of it, I think I would, Mr. Hogan. I honestly didn't think of it.

Mr. HOGAN. That is all I have, Mr. Chairman.

Mr. NEDZI. Well, do you have the same reluctance to turn these letters over to the U.S. attorney's office?

Mr. HOUSTON. The U.S. Attorney's office—remember we took all our information down to the Department of Justice.

Mr. NEDZI. This is later.

Mr. HOUSTON. This is in October, yes.

Mr. NEDZI. Yes.

Mr. HOUSTON. At that time they agreed the information that we gave them should be held in Mr. Petersen's office and was not given to the U.S. attorney unless and until the issue was raised in the course of trial.

Mr. NEDZI. Well, did you go to Mr. Silbert's office, or would you have turned this over to Mr. Silbert at that time?

Mr. HOUSTON. I think if I had thought of it I probably would have.

Now, I didn't meet with Mr. Silbert. Mr. Petersen briefed Mr. Silbert. But if I thought of it, if I remembered the letters, I think I probably would have given them to Mr. Petersen. There is no real reason why not.

Mr. NEDZI. Why wasn't there a reason to give it to Mr. Gray?

Mr. HOUSTON. Or Mr. Gray. When Mr. Helms went down to see Mr. Gray on the 18th of October he had the same information we gave to Mr. Kleindienst and Mr. Petersen. It wasn't withholding, I just didn't think of it.

Mr. NEDZI. Let's go back to the first time the letter came into your jurisdiction.

Why wasn't it turned over to Mr. Gray at that time, or to Mr. Petersen, or Mr. Silbert?

Mr. HOUSTON. Because there was absolutely no indication of any other attempt to involve us in the *Watergate* case of any sort.

There was no particular reason, unless there was an indication, particularly from Mr. Silbert or Mr. Petersen, that there would be an attempt to protect us, to go down and offer it to them.

I keep trying to bring back the picture that this is a fairly typical way of handling a case when some——

Mr. NEDZI. You can't give us an example that it is typical, because when has a similar thing occurred?

Mr. HOUSTON. Take a case involving a man named Masferrer, down in Miami, who was prosecuted under the Neutrality Act and Un-control Act.

Early in the stage of the trial, shortly after indictment, Masferrer's lawyers were sending out rumors through the Cuban arena in Miami that they were going to involve us in the trial, in the defense of Masferrer. We were behind his expedition.

At first, in typical fashion, these seemed to be feelers to try to get a reaction from us. We did not react, and they died down. But then, as the case came up close to trial, we got more information the defense was preparing some line of action to involve us again through—there were correspondents, there were people in the Cuban arena——

Mr. NEDZI. What do you mean "correspondents"?

Mr. HOUSTON. Newspaper correspondents were getting stories on us.

Mr. NEDZI. Oh.

Mr. HOUSTON. We went down and talked to the Criminal Division, Justice, and with their permission went down and talked to the U.S. attorney and prepared——

Mr. NEDZI. That is a big difference right there. Did you go down to the Department here and talk to them?

Mr. HOUSTON. We did in October, yes, sir, when it became something more solid than just—again, Mr. Chairman, quite often in these situations the defendants among themselves are fighting, and it seemed to me this was the situation here. McCord, as I looked at that——

Mr. NEDZI. Why didn't the investigating authority have cognizance of this?

Mr. HOUSTON. Until it became an issue I didn't see why they needed it.

When it became an issue, we immediately got together with the Department of Justice and the prosecuting attorney.

Mr. NEDZI. Mr. Houston, if you were prosecuting a case would it not be of interest to you if a defendant had sent a copy of a letter which he sent to his attorney? Would that not be of interest to you?

Mr. HOUSTON. It would depend on the nature of the letter, I suppose.

Mr. NEDZI. Well, a letter which referred to the particular case that you were prosecuting. And here we have a letter that is single-spaced, a full page. For no other reason than to determine in some way the man's state of mind, what is he thinking about.

I can not conceive that you would not regard this as pertinent to the investigation. There must be another reason, which I have a suspicion of.

Mr. HOUSTON. The only other reason is the reluctance to get the Agency involved in the case at the time.

Mr. NEDZI. Do you also feel that you could not trust the Department of Justice or the FBI to keep this information confidential?

Mr. HOUSTON. I will say to that, Mr. Chairman, again, the information being given in connection with this trial was in fact appearing in the papers. This is a fact.

Mr. NEDZI. Actually, I sympathize with the desire of everybody to keep the Agency's skirts clean in this whole situation. I am concerned about it myself.

But under these circumstances, the desire seems to be somewhat excessive, because I do think that in effect there has been a suppressing of evidence.

Mr. HOUSTON. As I said to Mr. Slatinshek, there can be very differing views on that.

Mr. NEDZI. I recognize that.

Mr. SLATINSHEK. One observation.

We have been given information that Mr. George Dunn's assignment to Bill Colby occurred in December 1972, and it was roughly a period of 2 or 3 weeks, he doesn't have the exact date.

Mr. OSBORN. That is Leo J. Dunn.

Mr. SLATINSHEK. I am sorry, Leo Dunn.

Mr. NEDZI. Thank you very much, Mr. Houston.

Mr. HOUSTON. Thank you, Mr. Chairman.

Mr. CARY. Mr. Chairman, here is a copy of Mr. Gaynor's affidavit for the record.

Mr. NEDZI. Without objection it will be made a part of the record. [The affidavit of Mr. Paul F. Gaynor is as follows:]

AFFIDAVIT

COMMONWEALTH OF VIRGINIA,
County of Fairfax.

Comes now Paul F. Gaynor who being duly sworn deposes and says

1. I am Chief, Security Research Staff, Office of Security Central Intelligence Agency.
2. Purpose is to record my receipt and disposition of five envelopes with letter enclosures received by me from Mr. James W. McCord, Jr. during December 1972 and January 1973.
3. The first such envelope containing a letter dated 22nd December 1972 was received on or about 24th December 1972.
4. The second such envelope received on or about 29th December 1972 contained three separate notes: one listing five names, one containing three sentences and one addressed to "Jack."
5. The third such envelope containing a letter dated 29th December 1972 was received after 1st January 1973.
6. The fourth such envelope containing a letter dated 4th January 1973 was received approximately two days later.
7. The fifth such envelope containing a letter dated 5th January 1973 was received also approximately two days after its date.
8. On each instance of receipt of these letters they were turned over to my supervisor Mr. Howard J. Osborn, Director of Security, Central Intelligence Agency at opening of business the following working day. It is my understanding he made them available to the then Director of Central Intelligence and the General Counsel of Central Intelligence Agency.
9. The letters were subsequently returned to the Office of Security where they were stored under secure conditions.
10. At no time did I communicate with Mr. McCord in any way regarding aforesaid letters nor did I acknowledge their receipt. I have had no contact with Mr. McCord in any fashion other than above-mentioned letters since his retirement from the Central Intelligence Agency in the summer of 1970.

11. An intermittent source of the Security Research Staff, Office of Security, Central Intelligence Agency, with regard to the security of Agency installations who is a long time friend of Mr. McCord, did communicate to me verbally some gratuitous personal information regarding the McCord family situation, his problems in raising bail and conditions of his incarceration on two or three occasions prior to the McCord trial.

Subscribed and sworn to before me a Notary Public in and for the County of Fairfax, Commonwealth of Virginia this ____ day of_____. My commission expires _____.

Notary Public.

Mr. NEDZI. The subcommittee will recess subject to the call of the Chair.

[Whereupon, at 12:55 p.m., the subcommittee recessed subject to the call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON ARMED SERVICES,
Washington, D.C., Thursday, May 31, 1973.

The subcommittee met, pursuant to adjournment, at 10:06 a.m., in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order. This morning we are continuing our inquiry into the CIA-Ellsberg Watergate matter and have as our witness Mr. L. Patrick Gray III, former Acting Director of the FBI. [Accompanying Mr. Gray was his counsel, Mr. Stephen Sachs.]

Mr. Gray, would you stand and be sworn, please?

Do you swear that the testimony you are about to give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

**TESTIMONY OF L. PATRICK GRAY III, FORMER ACTING DIRECTOR
OF THE FBI, ACCOMPANIED BY STEPHEN SACHS, COUNSEL**

Mr. GRAY. I do, sir.

Mr. NEDZI. Mr. Gray, do you have a statement to make to the committee?

Mr. GRAY. Mr. Chairman, I do not have a prepared written statement as such. I would like to make some opening remarks, though, if that would be the pleasure of the chairman and the members of the committee.

Mr. NEDZI. We would be pleased to hear them.

Mr. GRAY. I would like to state for the record that I was appointed Acting Director of the Federal Bureau of Investigation on May 3, 1972, by the then Attorney General, Mr. Kleindienst.

On June 17, 1972, while I was visiting in California, paying visits to our field offices there, the break-in and burglarly at the Watergate Hotel here in Washington occurred.

At that particular time I was then, on a Saturday morning, June 17 as I recollect, at Pepperdine University Law School delivering the commencement address there to the law school, and shortly after noon on that day I received the first information regarding the Watergate break-in.

Then, to come to this point in time—that is, the immediate subject of your inquiry, Mr. Chairman—I would like to try to place before the committee a chronology of events as they relate to any allegations that the CIA was or was not involved in the Watergate.

I would go first to Thursday, June 22, 1972. Actually, I should say I had returned to Washington the evening of the 20th of June from Sacramento, Calif.

On the 21st day of June I had briefings from my own senior officials regarding the Watergate case in my own office in my own headquarters.

I had previously given instructions in this case that it was to be conducted with a very vigorous effort, aggressive, thorough investigation on the part of the Bureau.

Going right to the matter at issue, and beginning with Thursday, June 22, 1972, that morning at 10:21 a.m. Mr. Dean spoke to me—that is the counsel for the President, Mr. John W. Dean, counsel to the President—spoke to me to set up an appointment with me for later in that day regarding the scheduling of interviews of White House personnel whom we might wish to interview in connection with the conduct of our Watergate investigation.

At 10:45 a.m. that day, Mr. Dean also telephoned and spoke to me, and I do not have any recollection of the substance of that call whatsoever, Mr. Chairman.

Mr. HÉBERT. Mr. Gray. I want to get the dates right. The break-in at the Watergate was what date?

Mr. GRAY. I believe it was very early in the morning on Saturday the 17th.

Mr. HÉBERT. Of June?

Mr. GRAY. June 1972.

Mr. HÉBERT. Five days later the White House contacted you to set up interviews related to what was being done in connection with Watergate?

Mr. GRAY. I talked to Mr. Dean, as I recollect, on the 21st also, regarding interviews; yes, sir.

Mr. HÉBERT. I want to get the timespan there. It was 4 days.

Mr. GRAY. That is correct.

Mr. HÉBERT. After the actual break-in surfaced, the White House, through Dean, contacted you and discussed what the FBI was doing in connection with Watergate?

Mr. GRAY. Yes, sir. But the first telephone call I got on that, Mr. Chairman, I was up on the Hill in a Senator's office talking with that Senator about his suspicions that his own office might have a wiretap, and asking me if there was anything we could do to screen his office, and while I was in his office I had a call, the first call I got was from Mr. Ehrlichman, which was right there in this particular Senator's office—

Mr. HÉBERT. What I am trying to do to make it easier for the purpose of what I am saying, is to establish just how quickly the White House took cognizance of the Watergate break-in with the investigating agency, the FBI.

Mr. GRAY. The first contact I recollect, Mr. Chairman, was 9:35 a.m. on the 21st, the first day I was back.

Mr. HÉBERT. That was by Mr. Ehrlichman?

Mr. GRAY. Mr. Ehrlichman.

Mr. Ehrlichman suggested I call Mr. Dean that morning, because he was going to be handling it.

Mr. HÉBERT. That is all right. I wanted the timespan.

Mr. GRAY. Right. Mr. Ehrlichman suggested I call Mr. Dean that morning because he was going to be handling the inquiry for the White House and I did call Mr. Dean as I recollect it about 10 o'clock that morning of the 21st.

But with regard to the CIA aspects of this matter Thursday, June 22, 1972, was the first day that I had any contact at all, as I recall it, with regard to the CIA aspects of it.

Now, at 4:59 p.m. on that Thursday, June 22, Assistant Director Charles W. Bates, in charge of the General Investigative Division of the FBI, met with me to discuss with me the latest developments in the case, and bring me up to date.

He had met with me previously on the 21st in company with Mr. Felt and Mr. Kunkel, who was the Special Agent in charge of the Washington field office.

During the course of these briefings we considered all kinds of possibilities. Naturally we tried to develop in our own minds, I guess you might say, some possibilities with regard to what had really happened here.

Based on the fragmentary information we had at that early date, we certainly gave some consideration as to whether or not we had any right-wing Cuban involvement here, because of the nature of the people whom we knew a little something about by then. We certainly considered that there might indeed be some CIA overtones or aspects of this matter because of their prior association with the CIA. We, indeed, considered that this could be a political operation. This was very early in the game, now, in the early briefings of June 21 and June 22—or any combination of all three of these theories. And at those meetings that I had with the top executives of the FBI, we all agreed we would just keep our minds open and just run the investigation and see what developed.

At 5:02 p.m. on this same day, Thursday, June 22, 1972, I called Mr. Dean and talked to him, and for the life of me I cannot remember what was the substance or nature of that call, and I think that Mr. Bates was present in the office with me at the time, because he had come in at 4:59 p.m. to see me, and I called—my records indicate I called Mr. Dean at 5:02 p.m., but I cannot recollect the substance of that call at all.

It was at 5:23 p.m. on that day, Thursday, June 22, 1972, that I placed a telephone call to Richard Helms based on the fact that we had been theorizing there could have been a possible CIA involvement in the Watergate break-in. And I called him and my telephone note—I do have a telephone note on this call—it was to tell him of our thought in the Federal Bureau of Investigation that we might be poking into a CIA operation, and to ask him if he could confirm this or deny this for us.

He told me that he had been talking with his men regarding this very subject for the past few days, and that although they knew the people, they had no involvement in the Watergate break-in.

Now, that evening at 6:30 p.m., John W. Dean, counsel to the President, did come to my office and met with me, and we did discuss the scheduling of our interviews of White House personnel, and how they were going to be arranged. I wanted them arranged through the special agent in charge of the Washington field office and not continually arranged through the Acting Director's office or the office of the Acting Associate Director, but to arrange and schedule those interviews through the Washington field office, the level at which the case was being worked so as to make direct contact there with the man at the

White House in charge of the inquiry at the White House, the counsel for the President.

Mr. NEDZI. When was he placed in charge of this investigation?

Mr. GRAY. My information was that it came to me either in the first telephone conversation with Mr. Ehrlichman or with Mr. Dean himself on that first day back, the 21st, when I had the call, the first call from Mr. Ehrlichman and then I called Mr. Dean to talk with him.

Mr. NEDZI. I should say, when were you apprised of the fact that Dean was being placed in charge of the investigation?

Mr. GRAY. To the best of my recollection it was right in those two telephone calls on the 21st day of June, my first day back from the west coast.

Now, in this particular meeting with John Dean at 6:30 p.m. on Thursday, June 22, it is possible that I did discuss with Mr. Dean the results of my telephone call with Mr. Helms. It is possible that he could have raised the question of CIA involvement with me prior to that time, but I really don't have a firm recollection on it.

I do know throughout this period of time that he did raise with me, on a regular basis, the question of whether or not there were CIA aspects or overtones in this case, and whether or not in pursuing this matter that we might not be running into CIA sources.

The next series of events occurred on the following day, Friday, June 23, 1972. At 8:24 a.m. on that morning Mr. Dean called me and, to the best of my recollection, he was calling me with regard to rumors that were alleged to be rampant in the city at that time to the effect that the FBI had been ordered to close out this investigation in 24 to 48 hours, to hold up on White House interviews, and that we were dragging our feet.

Well, I just knew this wasn't true, because no such orders had been given, and indeed we had already commenced White House interviews on the preceding day.

Then, at 10:27 a.m. on that morning, again Assistant Director Charles W. Bates of the General Investigative Division met with me to brief me on the case, and again we discussed the various possibilities and the theories that we would have, and he assured me that the case was proceeding at full speed, and that there were numerous leads, and indeed there were many, many leads we were running down in those early days.

Then, at 11:06 a.m., I called John Dean and, to the best of my recollection, I gave him a briefing on the case, repeating to him essentially the matters that Mr. Bates and I had discussed.

To the best of my recollection, it was in this call that Mr. Dean mentioned to me that there was the possibility that there existed CIA aspects in this matter in connection with what we thought to be either a CIA money chain, or perhaps a political money chain.

At this point in time, again I may have told Mr. Dean of my call to Richard Helms. I am not at all sure that I did, but it is very likely that I did, but I certainly can't testify to it under oath.

Then the next call I received—

Mr. NEDZI. Did you ask Mr. Dean at this time what gave rise to that kind of speculation?

Mr. GRAY. No, sir, because you know my thinking was that he and I had been discussing the theories of the case and it might very well have come from that.

I didn't ask him specifically, though, Mr. Chairman, to my recollection.

About 1:35 p.m. on Friday, June 23, 1972, Mr. Dean called me, and I am pretty certain that in this call he related to me that General Walters would be coming to see me regarding CIA involvement.

Mr. ARENDS. Be coming what?

Mr. GRAY. Be coming to see me, Mr. Arends, at my office.

Mr. NEDZI. What time was that, Mr. Gray?

Mr. GRAY. 1:35 p.m. on Friday, June 23.

He urged that I speak with him, and this could very well have arisen because of the fact that I had said to him that if there is CIA involvement in this case, let the CIA tell us.

At 1:56 p.m., my records indicate that the secretary, or at least an individual purporting to be the secretary to General Walters, spoke to my secretary regarding an appointment with me. That appointment was set up for 2:30 that afternoon, Friday, June 23.

At 2:19 p.m. Mr. Dean called again and spoke to me. I have a very hazy recollection of this call, but it is my recollection that he was checking to determine whether or not I did have an appointment with General Walters.

General Walters came to my office and met with me and my records indicate he walked into my office at 2:34 p.m., and my recollection is he did advise me that if our investigation continued into the Mexican area we could very well uncover sources of the CIA. And he reminded me of the agreement that existed. It was the agreement, of course, that we don't uncover one another's sources. I have not read that agreement, but I certainly understood what agreement he was talking about. It was logical that we don't jump in and uncover one another's sources.

Then immediately after his departure from my office at 2:53 p.m., I spoke with Mr. Dean and it is my best recollection I reported to him on General Walters' visit, and to say to him we would hold up temporarily on this and work around any possible CIA sources so as not to uncover them.

In that same conversation I am quite certain that I also discussed with him again the matter that he had raised with me in the morning, concerning the allegations and rumors that the FBI was embarked upon a foot-dragging operation, had not interviewed or was not going to interview any White House personnel and had been ordered to close the investigation in 24 to 48 hours.

Mr. BOB WILSON. This was Dean that you were talking about?

Mr. GRAY. Yes, sir.

Mr. NEDZI. What was the time of that call?

Mr. GRAY. 2:53 p.m., sir.

Then, at 2:57 p.m., Mr. Bates came up and met with me, it must have been just for a very short period of time, and I have no real recollection of this, but in a memorandum, in a summary memorandum of the early events that Mr. Bates prepared, he has an entry in that memorandum that at 3:15 p.m. I telephoned Mr. Bates to tell him of my talk with General Walters, and he states in his memorandum that I briefed him in detail regarding the possibility of CIA involvement.

Now, there were two other calls on that day, Mr. Chairman.

At 3:24 p.m., I spoke to Mr. Dean, and again at 3:57 p.m. In these conversations I can not be absolutely certain that the names of Ogarrio and Dahlberg were mentioned.

It is my best recollection that I may have discussed with him the difference in the CIA positions and in one of my conversations with him on this day he requested, very definitely requested, that we not conduct any operations so as to expose any CIA sources in connection with our inquiry into the source of these dollars.

Mr. BOB WILSON. Excuse me. Did he give you any clue as to what CIA sources he was talking about?

Mr. GRAY. No, sir.

Mr. BOB WILSON. He didn't tell you what you might be running into, and to stay away from it?

Mr. GRAY. No, sir, he didn't. Neither did General Walters. It was just that we might be uncovering some sensitive resources or assets, as I remember it, of the CIA; to be careful.

In connection with that, I think it is pertinent for the committee to note that we did, nevertheless, in the Federal Bureau of Investigation, instruct our legal attaché at Mexico City to conduct appropriate investigation at the Banco Internationale regarding certain checks.

These, of course, were the checks that we had located in Mr. Barker's bank account at the Republican National Bank in Miami. There were four checks totaling in the aggregate \$89,000. They were drawn on Banco Internationale in Mexico City, and they were payable to Señor Manuel Ogarrio.

Mexico City was instructed to conduct an investigation to learn everything he could learn concerning these checks, but was instructed not to interview Mr. Ogarrio at this time.

Certainly these instructions, not to interview Ogarrio at this time came from me. There is no question about that in my mind.

And they came from me because of the information received on June 23 in connection with the telephone calls I had to and from Mr. Dean and the visit from General Walters.

Mr. HÉBERT. Mr. Gray, you say the telephone calls of Mr. Dean and visit of General Walters, and you had one conversation with Mr. Ehrlichman in this connection?

Mr. GRAY. No, I had that conversation, Mr. Chairman, with Mr. Ehrlichman on the day before.

Mr. HÉBERT. Anyway, the conversation as to pulling the FBI out, is that when Dean said to do it, or Walters said to do it?

Mr. GRAY. It wasn't put in the language of "pull the FBI out." It was put in the language that you are going to uncover some sensitive assets or resources of the CIA.

Mr. HÉBERT. The same meaning—I am using the words "pull out", it means "cut it out", that is what it means.

This is Dean and Walters saying that?

Mr. GRAY. Yes, sir, those are the reports that I am getting this day, Friday, June 23.

Mr. HÉBERT. Did either one of those two gentlemen, General Walters or Mr. Dean, tell you it was the President's wish? Did they invoke the name of the President in any of these conversations?

Mr. GRAY. Mr. Chairman, to the best of my recollection, the President's wish was not invoked. The first time I have seen that was when I read the Walters memorandum, and then of course I have seen it in the newspapers. But at this point in time, in June of 1972—

Mr. HÉBERT. Did Dean ever tell you or indicate that he was acting under direct instructions of the President?

Mr. GRAY. Well, I certainly can't say he told me that he was acting under direct instructions of the President, because he didn't use those words.

Mr. HÉBERT. You assumed then he was acting that way?

Mr. GRAY. I certainly made the assumption, because this is counsel to the President. He tells me he is conducting an inquiry to determine whether or not there was any involvement on the part of the White House staff.

Mr. HÉBERT. But at no time did he say the President told him to do that?

Mr. GRAY. No, sir.

Mr. HÉBERT. Ehrlichman didn't either?

Mr. GRAY. No, sir.

Mr. HÉBERT. Walters didn't either?

Mr. GRAY. To the best of my recollection they did not, sir. I would have to testify to that under oath. I do not remember them saying "This is the President's wish." Those words I didn't even see until I read General Walters' memorandum.

Mr. HÉBERT. I can understand the assumption, it was pretty natural in view of the positions they occupied.

Mr. GRAY. That is right, these are the top men——

Mr. HÉBERT. I am not belaboring that question at all. I just want to know if they said "The President has asked me to do this, the President has told me to do this."

Mr. GRAY. I don't recollect.

Mr. HÉBERT. They never said "The President"?

Mr. GRAY. No, sir.

Mr. HÉBERT. You assumed they were talking for the President?

Mr. GRAY. I certainly did, there is no question about that.

Mr. BOB WILSON. When Mr. Walters was here, he said that Mr. Haldeman said to tell you that the White House—not the President—but the White House felt that you might be uncovering some of the CIA assets.

Was that the term that was used when Mr. Walters was talking with you?

Mr. GRAY. I don't have the positive recollection on that that I would like to have. I know that appears in his memorandum but I have got to say I don't have that kind of a positive recollection of that conversation. Congressman Wilson.

Mr. BOB WILSON. General Walters said it two different ways. He said that he came and told you that the White House feels you should back off because of possibly uncovering CIA sources. Then he also said that he told you "I was told to tell you that the White House"—which is sort of a second step away from it—as though to warn you. Now, did he do that, to your recollection?

Mr. GRAY. That didn't occur, if it occurred at all, until our July 6 meeting, which occurred when I telephoned him on July 5 asking for confirmation in writing that there either was or was not a CIA interest.

Mr. NEDZI. Mr. Wilson, if I may, why don't we let Mr. Gray conclude his statement then we will all have a chance to get into these things.

Mr. BOB WILSON. Okay.

Mr. NEDZI. Mr. Gray, you mentioned it was your instruction not to interview Ogarrio.

When was that instruction issued and to whom?

Mr. GRAY. I am pretty certain that instruction was issued either on the afternoon of the 23d or the morning of the 24th. I believe it was probably the afternoon of the 23d, and I would give such an instruction to the acting associate director or direct to Assistant Director Bates.

Mr. NEDZI. Is there a written memorandum of this?

Mr. GRAY. There is a written memorandum of it, but it is a memorandum prepared within the FBI, and the memorandum—I have a copy of it.

Mr. NEDZI. Would you furnish the committee with a copy of it?

Mr. GRAY. Yes. We can show that to you right now if you want to see that.

[The following information was received for the record:]

JAMES W. McCORD ET. AL., BURGLARY DEMOCRATIC PARTY NATIONAL
HEADQUARTERS, INTERCEPTION OF COMMUNICATIONS

In connection with captioned investigation, Miami on 6/22/72, at the Republic National Bank, Miami, located four checks totaling \$89,000, drawn on the Banco Internacional, Mexico City, payable to Sr. Manuel Ogarrio, with the drawer's signature illegible. These checks dated 4/4/72, were deposited by subject Bernard L. Barker on 4/24/72, at the Republic National Bank and when they cleared on 5/3/72, he received cash for these checks totaling \$89,000, including \$10,000 in new \$100 bills.

Legat, Mexico City, was instructed to conduct appropriate investigation at Banco Internacional regarding these checks. To assist the Legat, Mexico City, the Miami office on 6/24/72, mailed photographs of the foregoing checks.

Legat, Mexico City, has advised that Sr. Manuel Ogarrio, who is believed to be identical with Manuel Ogarrio De Guerre, is a prominent reputable attorney with offices in the same building as the headquarters of the Banco Internacional, where he maintains an account. Legat, Mexico City, is continuing investigation regarding these checks but has been instructed not to interview Sr. Manuel Ogarrio at this time.

Action: For information. You will be advised of developments.

Mr. NEDZI. You may proceed.

Mr. GRAY. All right, sir.

Continuing to Tuesday, June 27, 1972, at 9:15 a.m., Mr. Felt and Mr. Bates met with me in my office, again to brief me regarding the latest development.

And at 9:28 a.m., on that morning, Mr. Dean called me, and Mr. Felt and Mr. Bates were present, and Mr. Bates has an accounting of this conversation in his early narrative memorandum of these events of the early days.

Mr. NEDZI. Who has possession of these memorandums at the present time?

Mr. GRAY. I have.

Mr. NEDZI. Will you make copies available?

Mr. GRAY. Yes; we will have to make a copy of that for you, Mr. Chairman.

My counsel is reminding me that I have these copies pursuant to having them in my confirmation file when I was preparing for my confirmation hearings. That is the reason that I still have these. These are copies of the original memorandums that are on file within the Federal Bureau of Investigation.

[The following information was received for the record:]

[Memorandum]

RESPONSE EXHIBIT No. 9

JUNE 22, 1972.

To: Mr. Bolz.

From: C. W. Bates.

Subject: James W. McCord, Jr., and others, Burglary of Democratic Party National Headquarters, June 17, 1972, Interception of Communications.

At 4:00 p.m. on 6/21/72, Mr. Felt, SAC Kunkel of WFO and I met with Mr. Gray on this case. We brought him up to date on all aspects. It was agreed that this was most important, that the FBI's reputation was at stake, and that the investigation should be completely impartial, thorough and complete. Several points were discussed and these have already been furnished to the field for handling, such as reinterview with McCuin to identify the Secret Service official, further details regarding the \$100 bills.

In answer to our question, Mr. Gray instructed as follows: Hold up any dissemination of this information to Department or White House. Hold up electronic sweep. Hold any interviews of White House personnel.

SAC Kunkel broached the theory that this was in furtherance of the White House efforts to locate and identify "leaks." It was admitted this was a theory. Mr. Gray said we should, of course, consider this but not let it influence our complete investigation. I assured him the investigation was going full speed and that I would keep him briefed on any developments.

At Mr. Gray's request, SAC Kunkel and I met with him at 9:30 a.m., 6/22/72. He was brought up to date on developments overnight and was informed that all points he raised yesterday were being thoroughly explored. At this meeting he again instructed that the dissemination be held up and that the electronic sweeps be held. I told him that both the CIA and the Metropolitan Police had inquired of WFO about briefings in this matter and that I felt we should brief no one. He agreed.

At 10:25 a.m., Mr. Gray called me and authorized our making an offer to the Democratic National Committee, the Credentials Committee, and the Republican National Committee for electronic sweep of their facilities. He also authorized a contact with Mr. John Dean of the White House regarding interviews and information needed there. This is being immediately handled by WFO.

While on the phone with him, I advised him of a new development: Subject Barker had tried to cash a cashier's check with the Republic National Bank, Miami, on 4/24/72. This check was drawn on the Boca Raton Bank and was for \$25,000. The Republic Bank checked with the Boca Raton Bank and they were advised the check was good and had been obtained by Mr. Kenneth Harry Dahlberg. Our files show Dahlberg was investigated at the request of the White House in December, 1969. He is an industrialist from Minnesota, is a millionaire, and has been active in the Republican Party in the Midwest for a number of years. The White House records disclosed he was not presently connected with the White House.

I talked to Mr. Gray again at 5 p.m. on 6/22/72 after his return to the office. I again went over the latest developments.

At 3:15 pm on 6/23/72 Mr. Gray called me. He said he had just talked to the Deputy Director of CIA in his office and he briefed me in detail regarding the conversation. I again told him I felt the FBI had no choice but to continue our full investigation and obtain all the details. He agreed.

At 6:00 p.m. on 6/23/72 Mr. Gray called me. He said he had just talked with Sandy Smith, a reporter for TIME magazine. Smith told him that TIME had adverse information affecting Mr. Gray but not affecting the FBI; that Gray had refused to permit Agents to check Colson's telephone toll calls and to interview him and that Gray had instructed this investigation be wrapped up in 24-48 hours, the inference being it would be a whitewash by the FBI on Gray's instructions. Mr. Gray told me he told Smith that the question had not arisen regarding Colson's toll calls; that we had checked with Colson to get toll calls made by Hunt; that he had not instructed the case be wrapped up in 48 hours but had instructed that it receive immediate priority attention and that he had indicated he had held up the electronic sweep of the Democratic and Republican headquarters until he had all necessary facts and that the sweep had now been ordered. Mr. Gray instructed that I have all Agents in WFO who had worked

on this case in his office at 11 a.m. 6/24/72 (Saturday). I so instructed Supervisor John Ruhl of WFO and later passed these instructions on to SAC Kunkel.

On Saturday morning, 6/24/72, at 8:58 a.m., Sandy Smith called for me. I was away from my office and he asked that I call him at area code 301 757-4835. I contacted Mr. Gray at home and told him if he had no objection I would call Smith back and see what he wanted. At 10:16 a.m. 6/24/72 I called Sandy Smith. He told me he was working as a reporter for TIME magazine and that his present assignment was to dig into the burglary at Democratic National Headquarters. He commented that the editors of TIME and some reporters do not like the FBI. He said he was not one of these. His editors have received information in this case about Mr. Gray's performance. The source is Democratic and probably a member of Larry O'Brien's staff. The information TIME has is as follows:

(1) Mr. Gray met with Mr. Mitchell last weekend in California and discussed this case.

(2) Mr. Gray told Agents to wrap this case up in 24 hours.

(3) Mr. Gray prevented Agents from checking Colson's phone calls.

Smith said his editors wanted him to check this out and they wanted to quote someone in the magazine. Smith then related his telephone call to Mr. Gray and Mr. Gray's answers to the above:

(1) No. Both were in California but they did not meet.

(2) He did not instruct that the case be wrapped up in 48 hours but did hold up the sweep until we could get all of our ducks in a row. This has now been authorized.

(3) The question of Colson's telephone calls never came up—we were checking out Hunt. This has never been done and no records are maintained at the White House as to Hunt's calls.

Smith said he gave all of this to his editors in New York; that TIME called him back and wanted him to find out why Colson's calls were not checked. He called Mr. Gray back. Mr. Gray told him that he did not intend to go in to details as to our investigation and had no comment on this. Mr. Gray told Smith that this was obviously an effort to malign the FBI. Smith told Mr. Gray he would certainly do nothing in this regard as he had only the highest admiration for the FBI.

Smith told me he merely wanted to let me know what had happened and was asking for no information. None was given. He pointed out that he does not write this story he merely furnishes the information to New York where it is written. Smith is reasonably certain TIME will not comment regarding the alleged Mitchell-Gray meeting. They will not comment on the 48-hour matter. Insofar as Colson is concerned, he does not know. He will find out later today what will be written on this and will call me.

Smith said there was a rumor around town which was being spread by Larry O'Brien that they can't trust the FBI; that the MPD inventory of equipment found and FBI's inventory do not jive. Some of the equipment is Government property. I told Smith this was absolutely false and had no basis in truth whatsoever. Smith said O'Brien wants to show that President Nixon is behind this and that the FBI will whitewash it and get out of the case quickly.

I immediately called Mr. Gray and related to him Smith's conversation with me.

At 11:00 a.m. I met with Mr. Gray, SAC Kunkel, and 27 WFO Agents. Mr. Gray pointed out the seriousness of this leak to the news media concerning our investigation. He said he would not put up with this, that there was no excuse for it, and he wanted it stopped. He said there was no place in the FBI for loose-lipped Agents. Mr. Gray was very forceful about this, and rightly so. After he dismissed the Agents he conferred with me and SAC Kunkel. We again went over leads in this case. After Kunkel left Mr. Gray instructed that I furnish to him all of the current information we have and I gave him all of my ticklers. He said he wanted to review these himself.

Mr. Gray called me at home Saturday afternoon, 6/24/72. He said he wanted to have delivered to him at his apartment by noon Sunday, 6/25/72, all of the information in whatever form available known to WFO. SAC Kunkel was so instructed and at noon 6/25/72 delivered to Mr. Gray several volumes of teletypes, inserts and other material.

At 5:50 p.m. on 6/24/72 Sandy Smith called me. Said he had learned that the TIME article would be reduced to a minimum. No mention will be made of the FBI-MPD inventory. No mention will be made of the 48-hr. matter. The article would read as follows:

"It is inevitable that some were watching the FBI to see that there was no whitewash based on White House instructions. Mr. Mitchell and Mr. Gray were in California at the same time. Both have denied meeting. Mr. Colson was interviewed re telephone calls made by Mr. Hunt but no records are kept of these."

Smith said he tried to get deleted completely the Mitchell-Gray thing but his editors would not budge. I immediately relayed this information to Mr. Gray. He told me he had talked with Larry O'Brien on the telephone concerning the above information I gave to Mr. Gray from Sandy Smith. He said O'Brien commented that he had the highest regard for the FBI and wanted Mr. Gray to know that the investigation so far had been conducted in an excellent, thorough manner so far as he was concerned, that all he wanted was a full, thorough and complete investigation. Mr. Gray told him this was being done.

At 9:15 a.m. 6/27/72 Mr. Felt and I met with Mr. Gray on this matter. I furnished him at his request up-to-date copies of teletypes from WFO and a list of witnesses to appear before the Federal Grand Jury. I also discussed with Mr. Gray the attached items: (Attachment No. 1)

While in Mr. Gray's office Mr. John Dean of the White House called him. Mr. Gray inquired of him regarding Item No. 1 on attachment. Mr. Dean said that on June 19, Mr. Fred Fielding of the White House took everything from Hunt's office, put it in boxes, and it has been under guard since. All of this was delivered yesterday (6/26/72) to WFO. The question of custody and chain of evidence can be obtained from Mr. Fielding. Mr. Dean said that he would be happy to furnish any photographs WFO desired in connection with the matter on No. 3 of attachment.

Mr. Gray also discussed with Mr. Dean the Dahlberg matter and pointed out to him that if Dahlberg continued to refuse to talk to us he would obviously be called before the grand jury. After leaving Mr. Gray's office I passed the above information to SAC Kunkel so that it could be immediately handled.

Mr. Gray said that after his detailed review of all the information in this matter he was convinced that it was a CIA or a political operation or both. Both Mr. Felt and I pointed out it was extremely important that the FBI continue its aggressive, thorough investigation until we determine the motive, reasons and identity of all persons concerned. We pointed out that Mr. Gray may possibly be called to testify at some later date before a congressional committee and we could not afford to have the FBI accused of not pursuing this matter to the end. Mr. Gray agreed completely. As a matter of fact he indicated this position to Mr. Dean on the telephone.

ATTACHMENT No. 1

(1) Mr. John Dean of the White House has informed the WFO that he has obtained material belonging to Hunt, including photographs and letters which he would turn over to Agents Monday morning. Agents were there but the matter seemed to be up in the air as of 3:30 the Agents were still at Mr. Dean's office but the material had not been furnished.

(2) General Redman, White House Communications Agency, has informed WFO that he can furnish to them all of Hunt's toll calls from the White House on approval from somebody at the White House.

(3) You may recall that Jack Bouman (Bauman) of Winterhaven, Florida, a retired CIA employee, has been interviewed as a result of checking long distance calls made by Hunt from the hotel in Washington. Bouman says that Hunt had offered him a position in the "security field" and indicated an association with the Republican Party. Bouman subsequently met with Hunt at the Playboy Club in Miami on 12/28/71. Present with Hunt was an individual whom Hunt did not identify. He was described as a white male, 38-42 years old; 5'8" to 5'10"; 160 lbs; black hair—receding. Hunt discussed the need for a security program for the Republican Party. This unidentified man did not participate in the conversation.

At Hunt's request Bouman flew to Washington in January of 1972. He called Hunt at the White House. Hunt and the same unidentified man came to the Hay-Adams Hotel. Bouman was again offered the same security job. He noted that the unidentified man had initialed cufflinks which did not correspond to the first name used by Hunt.

Mr. Kunkel, SAC-WFO, would like to obtain photographs of Dave Colson and Butterfield so that Bouman may review them in an attempt to identify this third individual.

(4) Kenneth H. Dahlberg was again contacted at his residence the morning of June 28. On advice of his Washington attorney he would not be interviewed, he would not furnish name of attorney without attorney's OK, he was unable to contact attorney but left word at attorney's office and will contact our Minneapolis Office after he hears from attorney. It appears to me that Dahlberg is under wraps not to talk to us.

Mr. Gray asked that I brief Mr. Felt completely on prior developments in this matter which I have done.

At 11:40 a.m. 6/27/72, Mr. Felt called me and advised that I was to attend a meeting in Mr. Gray's office at 2:30 p.m. Wednesday, 6/28/72. At the meeting would be Mr. Gray, Mr. Felt, CIA Director Helms, his deputy, and I.

On morning of 6/28/72 Mr. Felt advised me that a meeting with CIA representatives had been cancelled. Mr. Gray would see Mr. Felt and I at 2:30 p.m. At that time Mr. Gray was brought up to date on all developments in this case. He said he did not feel it was the appropriate time to sit down with CIA; that we needed to get our "ducks in a row." Mr. Gray opined this operation was either a CIA covert activity or political in nature or both. I pointed out that under no circumstances should we back off of any investigation at the request of CIA without forcing them to reveal completely their interest in this matter. Mr. Felt and I both pointed out that the FBI's reputation was at stake as well as Mr. Gray's position; that we did not feel we should hold back under any circumstances unless the reasons therefore were publicly expressed. Mr. Gray made it plain that he would not hold back the FBI in this investigation at anyone's request, including the President of the U.S., and if he were ordered to so he would resign.

We discussed with him a list of 8 leads that should be covered at the Committee to Reelect the President. He told Felt to check with John Dean at the White House on this. As a followup, Felt advised me at 3:45 p.m. 6/29/72 that he had called John Dean regarding these leads. Dean said he would check and call him back. Felt instructed that if we had received no word by cob 6/29/72 that WFO should go ahead the first thing the morning of 6/30/72. SAC Kunkel was so advised. (LPG told WMF this in the TC on 6/29.)

On 6/28/72 Mr. Felt instructed me not to interview [deleted] and John Caswell whose names were in Hunt's address book. His instructions had come from Mr. Gray who received a call from Helms that these 2 men were acting CIA Agents and he requested we not interview or investigate them at this stage. I relayed these instructions to SAC Kunkel, WFO, and SAC McDermott, Alexandria. McDermott advised that [deleted] had been interviewed on the evening of 6/27/72 but that he would call the Agent off of the interview with [deleted].

Also on 6/28/72 Mr. Felt instructed that we discontinue a lead to interview and investigate Kathleen Chenow. This was done.

**RECOMMENDED INTERVIEWS AT COMMITTEE TO REELECT THE PRESIDENT
CONCERNING THE FOLLOWING**

(1) Who recommended/recruited James Walter McCord, Jr., for Chief of Security?

(2) What were McCord's duties and who did he report to, or was responsible to?

(3) How did McCord's job as Chief of Security tie-in, or did it, with his duties regarding recruiting individuals for the security squad assigned to guard the Mitchell family? Also, did the Committee pay the salaries of persons on the Mitchell family security guard? (Note: Alfred C. Baldwin, former FBI Agent, identified as being in the Howard Johnson Motel during the period 5/5/72-6/17/72. This motel is located across from the Watergate location of the Democratic Party headquarters. Baldwin is also known to have been assigned to guarding of Martha Mitchell in April, 1972.)

(4) Determine the Committee's knowledge of a bank account opened by McCord at National Savings and Trust, Washington, D.C., in the name of "Dedicated Friends For a Better America" showing McCord as Chairman. This account was opened in February, 1972 and closed in April, 1972 and \$90,000 passed through it during this period.

(5) To whom did McCord report concerning transactions in the foregoing account and what use was made of such funds, namely, were they for McCord's use in connection with his security responsibilities.

(6) Determine identity of any similar accounts which McCord may have opened.

(7) Who did McCord recruit to assist him in the work of the Committee.

(8) Determine the Committee's knowledge of and/or contacts made with the Committee by Alfred C. Baldwin (known to have telephonically contacted the Committee from Connecticut on 6/19/72, following 6/17/72, arrest of subjects); Everett Howard Hunt; Kenneth Dahlberg; and Michael Douglas Caddy.

Note.—Hunt's White House file has notation 3/29/72, Hunt could be more effective at "1701." Committee's address is 1701 Pennsylvania Avenue, N.W., and according to Charles Colson 3/29/72, is last date Hunt employed by White House.

On the morning of 6/29/72 Mr. Felt, after talking with Mr. Gray, instructed that we hold up any interviews or investigation of [deleted] and Ogarrio of Mexico City, and Kenneth Dahlberg. I told him this would be done. I pointed out I had no objection to temporarily holding up these leads but I strongly felt that they should eventually be covered—regardless.

Mr. Gray confidentially advised at the meeting on the afternoon of 6/28/72 that he had an appointment at the White House at 6:30 p.m. that day. Mr. Felt and I both reiterated the absolute necessity that nothing deter the FBI from a complete and thorough investigation.

At 10:15 a.m. 6/30/72 SAC Kunkel advised me that AUSA Silbert had told him that he and USA Titus felt there was some delay on the part of the FBI in certain aspects of this investigation. He referred to the interviews of Dave Young, Chenow, Ogarrio and the receipt of copies of the reports. Silbert said they wanted to move rapidly, that AAG Petersen had so instructed them. I discussed this with Mr. Felt.

At 12:50 p.m. 6/30/72 Mr. Felt told me that John Dean of the White House had said to hold off interview of Young until Dean talks with Mr. Gray.

At 1:25 p.m. Felt told me it was all right to interview Young, that he would be made available at the White House Monday morning (7/3/72). Chenow is returning from England and will be available next week for interview. Dean will let us know specifically. Dean will sit in on these interviews. SAC Kunkel advised.

At 12:30 p.m. 6/30/72 Mr. Felt stated it was OK for Agents to interview John Mitchell and to reinterview Dahlberg. WFO was advised on the interview of Mitchell and SAC Minneapolis was advised re Dahlberg.

At 1:25 p.m. Mr. Felt advised that Dean had talked to Mr. Gray and we were not to interview Dahlberg at this time. SAC Minneapolis so informed.

A phone call was received from AAG Petersen asking for an informal summary of information on Dahlberg. This was prepared and hand delivered to him at 2:00 p.m. Also on Mr. Felt's instructions copies of our reports have been delivered to Petersen and to the U.S. Attorney.

At 2:30 p.m. on 7/3/72 SAC Kunkel and I met with Mr. Gray. He was brought up to date on all developments. Mr. Gray commented that he was not going to hold off on any phase of this investigation at the request of anyone. He made the comment that he did not feel that John Dean or Charles Colson were involved in any way but had the feeling that Ehrlichman "was caught up in something." He requested that we investigate the complete background of Fiorini (true name Sturgis) and all of his activities and associates. Such investigation was ordered in Miami. He also instructed that we check out thoroughly and completely Felipe De Diego. This was also ordered.

On the morning of 7/5/72 I delivered to Mr. Felt and to Mr. Gray the interview of Miss Gleason. At 9:45 on 7/5/72 SAC Kunkel called. He said that Attorney Bittman will let AUSA Silbert know by noon as to when he will make Hunt available for an interview by the FBI. Mr. Felt was immediately advised. It later turned out that Bittman did not call Silbert back on 7/5/72.

At 12:05 p.m. 7/5/72 Mr. Felt called and instructed that I tell SAC Kunkel that if they have a good prospect at the Committee to Reelect the President they should attempt to make a contact with them at home or away from the office and see if they would be willing to talk with the FBI without an attorney present. Kunkel said this would be considered.

At 2:45 p.m. 7/5/72 SAC Kunkel advised that Baldwin was thinking about taking the fifth amendment before the Grand Jury. He also said that Jerry Alch, an attorney in the F. Lee Bailey firm, was representing McCord. Ten people at the Committee to Reelect the President are to be served with subpoenas on the morning of 7/6/72 to appear before the Grand Jury. They will go immedi-

ately to the U.S. Attorney's office and there will be given an opportunity of talking to the FBI before appearing at the Grand Jury. Mr. Gray was advised of this at 2:50 p.m.

At 4:30 p.m. 7/5/72 SAC Kunkel advised that Baldwin had agreed to talk to the FBI and that Agents were on the way to see him. At 4:50 p.m. Mr. Gray called and said he had finished reading the Gleason interview. Mr. Gray said that Agents should go after Odle on the night of 7/5/72 and see if he would talk to the FBI. I immediately relayed this to SAC Kunkel. Kunkel felt that if we hit Odle and he refused to talk it would give him an opportunity to get his story straight before being subpoenaed before the Grand Jury on the morning of 7/6/72. I relayed this to Mr. Gray and told him I agreed with Kunkel. He said he also agreed and we should hold up on this.

At 6:10 p.m. on 7/5/72 Mr. Gray advised me he had talked with General Walters of CIA. He told Walters that he must have a communication from CIA in writing explaining why and requesting that we hold up any interview or investigation of Ogarrio and Dahlberg. General Walters said he would have a communication to Mr. Gray by 10 a.m. on 7/6/72. Mr. Gray said if this was not forthcoming at that time we should go ahead. As a followup to this Mr. Gray advised me at 10:30 a.m. on 7/6/72 that he had received the CIA letter, that it was not pertinent, and that we should immediately interview Ogarrio and Dahlberg. Instructions were given to have this done.

At 10:30 a.m. on 7/6/72 I gave Mr. Gray the WFO teletype reflecting the interview with Baldwin. SAC Kunkel and Mr. Felt were with me. It was agreed we would hold up any search warrant of McCord's home because of the necessity of identifying Baldwin as the source and in view of the elapsed time since McCord's arrest we will consider this later.

WHITE HOUSE INTERVIEWS

At 11:30 A.M. this morning, WFO Agents arranged for interview with Charles Colson, Special Counsel to the President in the presence of John Deane. Agents had definite impression Colson had been previously interviewed by Deane. Colson denied any knowledge of Hunt's involvement in this matter and stated Hunt's assignment with White House terminated 3/29/72. Colson stated Hunt's assignment would not to his knowledge have required contacts with individuals such as subjects of this matter.

Mr. Deane is arranging for Bureau to receive all toll calls made from Hunt's office since March, 1972.

ELECTRONIC SWEEPS

Arrangements have been made with Mr. Lawrence O'Brien, Chairman, Democratic Party, for an electronic sweep of his office. According to the Lab the initial contact with the Democratic Party, National Committee Office, will be tomorrow morning (Friday).

Contact was also made of Mr. Robert Dole to arrange similar sweep of Republican Party Headquarters. Call was placed to former Attorney General Mitchell by SAC, WFO, and for Assistant Attorney General Mardian returned this call and concurred in the agreement that the Republican Party Headquarters should also be electronically swept. This will be done following the sweep of the Democratic Party Headquarters.

MIAMI PHOTOGRAPHS

Miami office has advised that a Cuban photographer has been identified to them by a private detective as having developed two rolls of 35 mm film on or about 6/10/72, with three individuals one of whom he weakly identified as subject Barker, another of whom he positively identifies as subject Florini and the third he cannot identify. Foregoing is based upon Agents interview of the photographer who stated that he was contacted as indicated above on 6/10 by these individuals who wanted a rush job done in developing two rolls of 35 mm film. According to the photographer he made 40 7x10 prints for which the individuals paid \$75 plus a \$20 deposit which they forgot about in their hurry to leave his shop upon completion of the developing. According to the photographer many of these pictures as he recalls were onion skin copies of letterhead paper of Chairman of the Democratic National Party. He specifically recalls seeing Larry O'Brien's name signed to some of this correspondence. According to the photographer visible in the picture is a shag rug on which the document

being photographed was placed and visible on each of the corners are hands wearing what appeared to be rubber gloves.

\$25,000 CASHIERS CHECK

Miami has determined from records of Republican National Bank that subject Bernard L. Barker on 4/24/72, cashed a cashiers check from Kenneth Harry Dahlberg on whom we did White House inquiry in December of 1969 to January, 1970. Dahlberg has closed his winter home at Boca Raton, Florida, and reportedly is in Minneapolis. Minneapolis instructed to interview Dahlberg concerning this check.

MC CORD'S BANK ACCOUNT

Subpoena has been served on McCord's bank, Rockville, Maryland, for production of all bank records concerning McCord's account. These records are expected to be produced shortly.

Mr. GRAY. At that 9:29 a.m. call, Mr. Dean called me. Mr. Felt, Mr. Bates, and I had been discussing the effects of Mr. Howard Hunt that had been turned over to the Federal Bureau of Investigation, and we were concerned about these, whether or not the chain of custody could be established, and whether or not we could obtain pictures from the White House to assist us in identifying an individual who was with Mr. Hunt down in Miami on a trip that we wanted to tie down. And also I discussed with him Mr. Dahlberg. I brought up the question of Mr. Dahlberg in connection with our desire to interview Mr. Dahlberg regarding the \$25,000 check that was also involved in the Florida Southern money. It was a check that had been uncovered in Mr. Barker's bank account at the Republic National Bank in Miami.

I pointed out to Mr. Dean that if Dahlberg continued to refuse to talk to us, he would obviously be called before the grand jury.

Although I can not pinpoint the conversation, I believe that by this date Mr. Dean had also requested of me that Mr. Dahlberg not be interviewed because of his involvement, too, in this CIA alleged—

Mr. NEDZI. The request was made on the 27th?

Mr. GRAY. I believe it was on the 23d, Mr. Chairman, but I just absolutely cannot be positive of it.

Mr. NEDZI. You say Dahlberg continued to refuse. Did he refuse to be interviewed previously?

Mr. GRAY. He had been evading us and we had been getting the reports back from Minneapolis he was going to a wedding or he was out of town, reports of this nature.

We just had the feeling in the FBI that Mr. Dahlberg was evading us. That was our feeling.

In the same conversation with Mr. Dean, I also pointed out to him that it was extremely important that the FBI continue its aggressive, thorough investigation until we determined the motive, and the reasons, and the identity of all persons involved. In this same conversation I also indicated to him I might be called upon at a later date to testify before a congressional committee, and we certainly could not afford to have the Federal Bureau of Investigation accused of not pursuing this matter to the end.

At 11:19 a.m. I called—this is Tuesday, June 27, 1972—at 11:19 a.m., I called Mr. Helms, Director Richard Helms. I called him because during this period of time from the 22d through the 27th we had been discussing back and forth within the FBI—and I had been

discussing it with Mr. Dean and with General Walters—whether or not there was any CIA interest.

So I made this call to Mr. Helms, and I asked him specifically if there was any CIA interest in Manuel Ogarrio. And I also asked him if he could meet with me with his Deputy that afternoon, the afternoon of the following day, rather, the 28th of June, at 2:30 p.m., and that I would have present my Acting Associate Director and my Assistant Director in Charge of my General Investigative Division. He agreed to it, but said "Let me get back to you on the meeting," and he said, "I will have to get back to you to determine whether or not there is any CIA interest in Señor Manuel Ogarrio."

At 3:40 p.m., Mr. Helms called me and he told me that the CIA had no interest in Ogarrio, and he also confirmed the meeting for June 28 at 2:30 p.m. in my office with Mr. Helms, General Walters, myself, Mr. Felt, and Mr. Bates.

At 3:47 p.m., very quickly after I talked with Mr. Helms, Mr. Dean called me, and although I can't be certain about this call, I believe it to have been regarding any CIA interest in either Mr. Ogarrio or Mr. Dahlberg, or both, and to discuss again with me the holding up of interviews of these two people so as not to overturn any CIA sources.

Now, on Wednesday, June 28 at 10:25 a.m., Mr. Dean called me and spoke to me, and we were talking then—the primary purpose of that call, as I recollect it, is that it was concerning leaks that were coming out regarding the material that had been delivered from Mr. Howard Hunt's office to the FBI. I am not at all certain, but I believe once again Ogarrio and Dahlberg were discussed, and in one of these conversations I may very well have told Mr. Dean that I had set up a meeting with Mr. Helms and General Walters.

I have the recollection of that, but I can't be so absolutely positive as to say "Yes, I did tell him that I was having that meeting."

But certainly Mr. Helms and I knew that we were having that meeting, and certainly Mr. Bates and Mr. Felt knew we were having that meeting because once again this is contained in Mr. Bates' narrative summary of these events of these early days.

Now, at 10:55 a.m., Mr. Ehrlichman called me and I was not available. But at 11:17 a.m., I returned Mr. Ehrlichman's call. And he just very bluntly came right straight out and said "I want you to cancel your meeting with Helms." I, of course, asked him for what reason? What purpose? And he said, "It is not necessary, there is no reason at all to hold that meeting." And I said to him, "Well, then, who is going to make the decisions as to who is to be interviewed and who isn't to be interviewed?" And he said, "You do." And that was the end of that conversation.

Mr. JÉBERT. It was that cryptic?

Mr. GRAY. Yes, sir, as I recall it. It was boom, like this kind of a conversation where I am getting an order to cancel a meeting with Helms.

And 6 minutes later at 11:23 a.m. I called Mr. Helms, and I told him of this cancellation of this meeting. I told him we were not going to have this meeting, but I did not tell him that I had been ordered to cancel it by Mr. Ehrlichman.

In this particular telephone conversation, I am quite certain this was the conversation with Mr. Helms in which he requested that we not interview CIA active agents Karl Wagner and [deleted]. And instructions did go out from me not to interview Karl Wagner and [deleted], but before the instructions could get down to the agents who were actually doing the interviewing, [deleted] had already been interviewed.

Mr. NEDZI. What was the reason given for not wanting them interviewed?

Mr. GRAY. Mr. Helms didn't give me any reason and I did not ask him for any reason. I reasoned once again this was an area into which we should not enter, but, as it turned out later, we had already interviewed [deleted].

We interviewed him before the instructions could get down to the agents.

At 3:58 p.m. that day, Mr. Dean called me. I was not available, and the word was left that I was to return the call, and I did return the call at 4:35 p.m. that afternoon. After carefully checking all of my records and going over this matter as I have with great thoroughness during the past 3½ to 4 weeks, I now believe that in this particular call that Mr. Dean asked me to hold up the interview on Kathleen Chenow, who was then in England on a vacation. He told me—and he gave me her address. Once again I passed this information along to Acting Associate Director Felt, and there is a memorandum on that, too.

Mr. NEDZI. Who is she?

Mr. GRAY. Kathleen Chenow, as it turned out later on, was the secretary to David Young.

Mr. NEDZI. How do you spell her name, Mr. Gray?

Mr. GRAY. K-a-t-h-l-e-e-n C-h-e-n-o-w.

Mr. ARENDS. She was secretary to whom?

Mr. GRAY. Kathleen Chenow, secretary to David Young.

David Young, I believe, is the National Security Councilman, or was the National Security Councilman.

On the evening of Wednesday, June 28, instructions went out to our legal attaché in Mexico City to interview Mr. Ogarrio. Then, in the early morning of June 29, 8:15 to 8:30 a.m., instructions were issued to hold Ogarrio and Dahlberg interviews in abeyance.

We continued to check the bank records, however, of Mr. Ogarrio, and we continued to get the toll call records of Mr. Dahlberg.

I can't recollect—and I have tried, and I have looked for documents to try to help me recollect how this came about that the orders were issued to interview Mr. Ogarrio on the evening of the 28th day of June, then on the morning of June 29, Thursday, at 8:15 to 8:30, the instructions went out to hold those in abeyance. Those orders had to come from me, Mr. Chairman, and I have only a very vague and hazy recollection of a call that morning at home from Mr. Dean—it would have had to have been from Mr. Dean—but it is a vague and hazy recollection and I wouldn't want to swear to it under oath. I am giving you now what is a vague and hazy recollection based on a reconstruction of a writing on this particular event, which writing, which memorandum we will make available to the committee, and the committee can look at it themselves.

[The following information was received for the record:]

JUNE 29, 1972.

JAMES WALTER MCCORD; ET AL., BURGLARY OF DEMOCRATIC PARTY NATIONAL HEADQUARTERS, INTERCEPTION OF COMMUNICATIONS

On evening of 6/28/72, a cablegram was sent to Legat, Mexico, instructing him to interview Manuel Ogarrio concerning the four checks totaling \$89,000, drawn on the Banco Internacional which subject Bernard L. Barker deposited on 4/24/72, in the Republic National Bank, Miami, and for which he received cash on 5/8/72, when instant checks had cleared.

At 8:15 a.m. on 6/29/72, Assistant Legat Ford was instructed to hold foregoing lead in abeyance and to make no contact with [deleted].

At 8:30 a.m. on 6/29/72, SAC Held, Minneapolis, was instructed to make no further attempts to interview Kenneth Dahlberg; however, he was to continue to obtain toll records of Dahlberg's. It is noted Dahlberg is the individual who reportedly gave subject Bernard L. Barker a \$25,000 cashier's check which Barker cashed on 4/10/72, at the Republic National Bank, Miami.

At 6:00 p.m. on 6/28/72, Supervisor Ruhl, Washington Field Office, was instructed to hold further leads regarding Mrs. Kathleen Chenow in abeyance. It is noted Kathleen Chenow was reportedly the secretary to David Young of the White House Staff and her telephone listing was found in subject Martinez's address book and her listing was also furnished to former CIA employee Jack M. Bauman who Hunt endeavored to recruit in January 1972, as part of a Special Security Force.

Mr. Richard Helms, CIA, advised the Acting Director that that agency has never had any interest in Manuel Ogarrio and it has had no interest in Kenneth Dahlberg since 1961.

Action: For record purposes.

MEMORANDUM

JUNE 29, 1972.

To: Mr. Bates B
From: W. M. Felt F
Subject: Burglary of Democratic National Headquarters

Acting Director Gray has instructed that the following CIA employees or contacts not be interviewed or investigated at this time because of National security considerations:

- (1) [Deleted.]
- (2) Kenneth Harry Dahlberg, Redgate, Minnesota.
- (3) Manuel Ogarrio, Mexico City, Mexico.

This is what happened. And I have this vague and hazy recollection because I was leaving that morning to go to San Diego and was flying out there via United Airlines to visit the San Diego field office.

But that is a vague and hazy recollection. I just cannot testify to it under oath, and I have to characterize it that way.

Mr. NEDZI. What is your vague and hazy recollection as to subsequent calls?

Mr. GRAY. That I must have instructed those earlier orders be changed because of a call from Mr. Dean. I don't have a note on that. The only thing I have is the Bureau memorandum reciting the action that was taken.

Mr. NEDZI. You don't recall what Dean said?

Mr. GRAY. No, sir, I do not. I just simply cannot testify to it under oath, because it wouldn't be fair. I just don't have that kind of a recollection. I only know that these events occurred. I had to have given those kind of instructions.

Throughout this period of time that we are discussing, the theme was to hold off on these interviews of Ogarrio and Dahlberg. There can be no doubt about that in my mind—that is crystal clear.

Now, on Friday, June 30, 1972—these are Washington times now.

I am giving, Mr. Chairman—at 10:13 a.m., Mr. Dean called me at FBI headquarters in the San Diego field office, and they were instructed to have me return the call. I returned the call at 7:30 a.m. San Diego time, and 10:30 a.m. Washington time.

My counsel points out to me I neglected to say that I had a telephone call from Mr. Felt, my Associate Director, on Thursday, June 29, 1972, at which we discussed interviews, and I did instruct that we temporarily hold up the interviews of [deleted].

I did that on my own, because I read in documents going across my desk that [deleted]. I figured to myself if we had these kind of involvements down there we better not interview [deleted]. But I put [deleted] in there myself; nobody told me to do that.

In this particular telephone call at 10:30 a.m. Washington time, Friday, June 30, 1972 (7:30 a.m. San Diego time), Mr. Dean was calling to complain about a Washington Daily News story that was carrying all kinds of information regarding the effects of Howard Hunt that were turned over to the Federal Bureau of Investigation. And this was a story written by a reporter, Patrick Collins. Mr. Dean contended that the information concerning this story could have only come from the Federal Bureau of Investigation, and that the information was leaking; there was no question about it in his mind. He was very, very unhappy about that.

He not only called me on that day, he also called Mr. Felt on that day regarding this particular story, and he wanted us to issue a press release stating there were inaccuracies in the story, which indeed there were, but we would not issue a press release on it because Mr. Felt had looked into this very, very thoroughly and was quite positive that no information regarding this particular story had leaked from the Federal Bureau of Investigation.

In this particular call, I also have the recollection that once again we discussed the holding up on Messrs. Ogarrio and Dahlberg.

Now, at 11:59 a.m., Washington time, or 8:59 a.m. Pacific Daylight Time, Mr. Felt called me regarding interviews of Young, Ogarrio, Chenow, and Mitchell, stating that Assistant U.S. Attorney Silbert had called him and was very much interested in pursuing those interviews and that the Washington field office had also recommended that Young, Chenow, and Mitchell be interviewed.

I told Mr. Felt to give Mr. Dean the message from Assistant U.S. Attorney Silbert regarding the interviews of Young, Ogarrio, and Chenow. And I also told Mr. Felt in that conversation with Mr. Dean to tell him that we were going to interview Young, that we were going to interview Chenow, we were going to interview Mr. Mitchell, or any others that we would have to interview.

Now, Mr. Dean called me back again at 1:02 p.m., and again talked to me about the Washington Daily News story, and I told him of the substance of my telephone conversation with Mr. Felt regarding the inaccuracies in the Washington Daily News story, and the fact it had not leaked from the Federal Bureau of Investigation.

Mr. ARENDS. You say you assured him Mr. Felt said the story did not come out of the Federal Bureau of Investigation?

Mr. GRAY. Mr. Felt told me he had conducted a thorough investigation into that, Mr. Arends.

Mr. ARENDS. Where did he do his investigating?

Mr. GRAY. Right in the Federal Bureau of Investigation.

Mr. ARENDS. He said there was no leak. How did he get the information, right or wrong, did he make the story up?

Mr. GRAY. I don't know how he got that information. The Federal Bureau of Investigation at that time was not the only source of information regarding the Watergate investigation.

Mr. HÉBERT. On himself, turning himself in?

Mr. GRAY. I don't know.

Mr. HÉBERT. We are presuming leaks now. The FBI didn't have it, but Hunt was certainly one individual with knowledge of the stuff that had been turned in. If he turned it in he must have turned it in.

Mr. GRAY. Mr. Dean?

Mr. HÉBERT. No; Mr. Hunt.

Mr. GRAY. It was Mr. Hunt's effects, Mr. Chairman.

Mr. HÉBERT. All right, who turned Mr. Hunt's effects in?

Mr. GRAY. Mr. Dean turned the Hunt materials over to the FBI.

Mr. HÉBERT. Mr. Hunt knew he gave them to Mr. Dean?

Mr. GRAY. No, sir; Mr. Hunt didn't know that because Mr. Hunt wasn't even in Washington. Mr. Hunt couldn't have known it at that time.

Mr. HÉBERT. How did Mr. Dean get the effects?

Mr. GRAY. He got them by ordering people to go over into Mr. Hunt's office and remove them.

Mr. ARENDS. Then he sent them up to the FBI?

Mr. GRAY. Yes, sir. They were delivered to the FBI on the evening—the afternoon and evening of the 26th day of June.

In that afternoon call with Mr. Dean regarding this Washington Daily News article, I simply can not recall whether on that occasion we again discussed any interviews of Messrs. Ogarrio and Dahlberg, but I do know throughout these conversations the requests were made to hold off on the interviews of those men.

When I came back from that particular visit to the West coast, on Monday, July 3, I asked my top people to meet with me to discuss the CIA ramifications that we were encountering.

At 2:30 I met with Mr. Felt and Mr. Bates and Mr. Kunkel in my office to discuss the CIA.

Mr. NEDZI. Kunkel?

Mr. GRAY. K-u-n-k-e-l.

We met to review the entire investigation to date, and to consider all the ramifications of a possible CIA involvement, because you can see the pattern through here is that there is no involvement in Watergate, the first report from Mr. Helms on the 22nd day of June, and then the thread of telephone calls from Mr. Dean, General Walters' visit. And in discussing this—

Mr. NEDZI. Threat of telephone calls?

Mr. GRAY. T-h-r-e-a-d.

In discussing this, in this meeting that afternoon we discussed the compartmentalization that existed within the Central Intelligence Agency. I was not sure it existed. I don't know today any compartmental condition exists in the Central Intelligence Agency with regard to their operations. But we did discuss that as a possibility this could be involved and there could be some assets and resources turned over, but in any event, the long and the short of it, following that discussion I pretty much resolved we had to have a writing from the Central

Intelligence Agency or we were going to interview Messrs. Ogarrio and Dahlberg.

That same afternoon—I had three calls from Mr. Dean that afternoon. I started a meeting at 2:30 p.m. with Mr. Felt, Mr. Bates and Mr. Kunkel in my office, and Mr. Dean called me at 2:40 p.m. I believe I merely told him then I was in conference and I would call him back. Then I called him back at 3:59 p.m., and then he called me back at 4:14 p.m.

While these calls may once again have involved Ogarrio and Dahlberg, I just absolutely have no recollection of it, and I can not recollect whether or not I told Mr. Dean that I was going to call General Walters and ask for a writing from him as to whether or not there was any CIA interest in Ogarrio and Dahlberg.

On Wednesday, July 5, 1972, at 1:23 p.m., Mr. Dean called me and the word was left to return the call, and at 2:58 p.m., I called Mr. Dean, and then at 3 p.m., he called me back. To the best of my recollection, these two calls involved Mr. Hunt's toll call records which we were still trying to get from the White House on the telephone that existed over there in—either in Mr. Hunt's office or a telephone that he used. This still is not clear in my mind today whether this was merely a telephone that he used, and that somebody else answered for him. We were trying to get his toll call records.

Mr. NEDZI. This was on what day?

Mr. GRAY. July 5, sir.

Then, at 5:54 p.m. that day, I called General Walters, and I have a note on that. I told him in essence we must have a writing expressing CIA interest in Ogarrio and Dahlberg on national security grounds, or for whatever other reasons they might have, or we were going to have to go ahead and interview them. And I did point out to him that the developing pattern of this investigation indicated that there was a probability of some CIA involvement. There was a probability of some national security considerations. But that I had to have a writing from them as to whether or not they had any interest in Mr. Ogarrio and Mr. Dahlberg, and I said: "If we do not have that writing, we are going to go ahead and interview these people, and I would like to have that writing by 10 o'clock tomorrow morning." And he agreed with me he would respond, and that he would meet with me on that.

At 6:01 p.m., John Dean called me and in that particular conversation I may very well have told him of my request to General Walters for a writing. But I don't recall the substance of that call. I am pretty sure that I would have told him of my request to General Walters for that writing.

By Thursday, July 6, at 10:05 a.m., General Walters met with me. He met with me for 20 minutes, as I recall it. I can recall very distinctly that he talked with great intensity regarding his inability to furnish a letter saying that CIA had an interest in this thing. I can recall him saying that he just absolutely could not give me such a letter. But he did give me a writing, he did give me a memorandum, which has got to be in the files of the FBI, and I know the Senate Appropriations Committee has a copy of this memorandum.

I had thought—my recollection was that was a one-page memorandum. It is a two-page or two and one-half page memorandum as I

recollect, and it details the things that we had previously been told by the CIA about each one of these principals, and it also states that the CIA has no interest in Mr. Ogarrio and no interest in Mr. Dahlberg, and it had no interest in Mr. Dahlberg since 1961.

I can remember that he was very, very upset that he might have to write such a letter to me, and that he would be directed to write such a letter, and he just said that he couldn't, that he would resign, and I know that I recollect that we talked in terms of protecting the President, and I think it was at this meeting that I mentioned to him that I had written earlier to the President way back in 1968, I am sure we discussed this, that I had written earlier to the President in this August 1968 letter to beware of people wearing the Commander-in-Chief stripes.

Mr. NEDZI. 1968?

Mr. GRAY. Yes, sir, in August, 1968, letter. I remember it so very well.

Mr. NEDZI. What was the occasion for that?

Mr. GRAY. I was just writing a letter to the President and I had a paragraph in there along those lines, this is one of the dangers in high office, to beware of people wearing the Commander-in-Chief stripes, it was the thing we wouldn't encounter in the Navy, the thing I was accustomed to. I am sure we discussed that.

Mr. NEDZI. Would you furnish this committee with a copy of that letter?

Mr. GRAY. I don't know if I can. If it is in my files in Connecticut, I would. But I do remember writing that, Mr. Chairman, and I am pretty sure that General Walters and I discussed that on this occasion when we were talking in terms of protecting the President.

Mr. ARENDS. Why did you write the President that letter?

Mr. GRAY. I don't recall, Mr. Arends.

I know that I saw the President in January 1968 at his law office, just to visit with him for about 20 minutes there, to tell him I hoped that he would be a candidate for the Presidency. I don't know, I just really don't know. I don't know whether this was in connection with the Pueblo incident, it could very well have been. I don't know whether that was the time frame or not. But I wrote the letter, I am sure of that.

Mr. ARENDS. You wrote that as a friend?

Mr. GRAY. Yes, sir, that is all. It was that kind of a letter. I will look in my files and see if I have that letter and try to dig it up.

[The following information was received for the record:]

LOUIS PATRICK GRAY, III,
Stonington, Conn., November 6, 1968.

DEAR MR. PRESIDENT-ELECT: Although the salutation may not be technically or socially correct, I, along with millions of your supporters, have awaited eagerly the day on which we might address you in this manner. We have joined with you in countless fights, all in accord with our democratic process, to achieve this worked for, hoped, prayed for day of days in the life of Richard M. Nixon.

Bea and I were at The Waldorf through Tuesday and Wednesday to witness the climactic end of a magnificent campaign. We did not sleep one moment, and "sweated it out" just as we did in 1960. This time the victory came to you, as it had to come, in this most troubled year of the history of our Nation.

Bea joins me in extending to you and to Mrs. Nixon, and to the girls our heart felt congratulations.

In mid-January of this year I sat with you in your office and chatted for about

twenty minutes regarding the political year ahead. You knew then my sentiments and you know now my sentiments regarding your Presidency.

As the year unfolded, however, I began to question in my own heart and mind the inherent fairness of so many depending upon Richard Nixon, and hoping and praying that you would earn the nomination and then go on to win the election. Nevertheless, I knew, deep in my visceral region, that this was your time—the time of a fighter, of a leader, of a competent and thoroughly experienced practitioner of the art of guiding the destiny of two hundred million Americans.

This victory is in; and, in retrospect, the campaign for the nomination and for the high office of The Presidency of The United States must be classified now as skirmishes relative to the major engagements and confrontations that lie ahead.

You expressed a philosophy today in your talk at noon at The Waldorf. May I be bold enough now to tick off a few comments; perhaps no new ideas are here, yet there may be an approach or two of some merit.

At Miami you said, "A party that can unite itself will unite America." As 1968 unfolded, I thought constantly of the hate, avarice, and the general inhumanity being demonstrated throughout our land. I was deeply grieved by the divisiveness and polarization growing at a rapid rate among our people.

It became all too obvious to me that the Boss's Presidency might wither and die in its infancy if this great, overriding burden of The Presidency were not met head-on at the outset and placed in the Priority One "A" position on the Agenda.

All of the other burdens, as awesome as they are, pale into insignificance if The President is unable to start the generation of an American climate in which he is able to exercise his judgment and skills to bring the American people along with him as he goes forward to discharge the heavy responsibilities of his office in behalf of his people.

Today, in your talk, you emphasized this very point. I was elated!

You can generate the climate of which I write. This I know, unless the matter is relegated to a lesser priority. To me, this is the umbrella, the protective cloak which must characterize your Presidency so that you can go on to be one of America's greatest Presidents.

The people of America must know you as we do, must trust you as we do, must have the respect and affection for you that we do, and must know your inner strength, your integrity, and power of judgment that we know.

I do not believe this to be idealistic drivel. I believe these comments to be aimed directly at the "jugular" of the Nixon Presidency.

You know far better than I the burdens you are about to assume; nevertheless, without the creation of this climate of which I write, the assumption will be that, and no more!

You have learned to use the various media to great advantage in going directly to the people. Use it frequently to keep them fully apprised of the President's views and the actions of the President. Do not let the pundits, the columnists, the commentators, and the "fuzzy heads" become the opinion makers. The President will be the opinion maker!

Let your spokesmen carry this message directly to the people too. Let them do it with reason and clarity of expression and with humility. Not the humility of the special pleader; rather the humility of the strong, and not the arrogance of the person who is impressed with the power and prestige of his Boss's high office.

In the Navy, you know, too many juniors try to wear the Admiral's stripes and bask in his power. The White House is no different. Your spokesmen speak for you, but do not wear the stripes of The Commander-in-Chief.

May Almighty God Bless you and keep you.

Sincerely,

L. P. GRAY, III.

Mr. HÉBERT. Mr. Gray, when did you mail that letter to the President?

Mr. GRAY. In August of 1968.

[Note: Mr. Gray indicated on June 14, 1973, that the letter was dated November 6, 1968.]

Mr. HÉBERT. The 1968 letter you referred to, you mailed it?

Mr. GRAY. Yes.

Mr. BOB WILSON. He wasn't President yet, he was a candidate.

Mr. HÉBERT. You were warning him before he became a candidate?

Mr. GRAY. I remember that paragraph in the letter, but I can't remember explicitly why I wrote that.

Mr. HÉBERT. What intrigues me, you wrote the letter warning him about people around him wearing the Commander-in-Chief stripes when he wasn't Commander-in-Chief.

Mr. GRAY. I know it. But I was pointing out to him this was one of the dangers of high public office.

Mr. HÉBERT. You were warning him before he went into office?

Mr. GRAY. That is correct, sir. that was the intent.

Mr. HÉBERT. I see.

Mr. GRAY. The one thing that I remember most vividly, though, about that meeting with General Walters in my office is that I was sitting at my desk and he was sitting over in a red chair just about a 45-degree angle off my right side, and I can recall during the course of this discussion, where I considered it a philosophical discussion, a discussion about the credibility of our institutions and the preservation of our institutions, and not using our institutions, I can remember him sitting back in the chair and putting his hands behind his head and saying, "I have an inheritance, and I don't have to worry about my pension any more and I am not going to let these kids kick me around any more." I very vividly and distinctly remember him making this gesture and leaning back in the chair and making that statement.

Mr. BOB WILSON. What day was this? That was the 6th of July?

Mr. GRAY. July 6; yes, sir.

Mr. HÉBERT. "These kids kick me around," to who was he referring, "these kids"?

Mr. GRAY. I didn't ask him specifically.

Mr. HÉBERT. Who did you assume he was referring to?

Mr. GRAY. I assumed at the time we was referring to Mr. Dean and men at his level at the White House.

Mr. HÉBERT. Ehrlichman and Haldeman?

Mr. GRAY. I don't know, Mr. Chairman, that I can honestly state to you under oath that I translated that at that time to be Ehrlichman and Haldeman. I know I probably translated it to be—

Mr. HÉBERT. Dean?

Mr. GRAY. I know I translated it to mean Mr. Dean, because he had been having all the telephone calls with me.

Whether I translated it to mean Mr. Ehrlichman or not, because of his call to me canceling the Helms meeting, I can't positively state, but I certainly didn't—

Mr. HÉBERT. He did not say just "the kids," he said "these kids"?

Mr. GRAY. These kids.

Mr. HÉBERT. It had to be more than one?

Mr. GRAY. That is correct sir, "these kids kick me around any more."

I can remember, as we got up, I stood behind my desk and he was standing right at that corner, and I can't recall which one of us said that we ought to call the President, one of us did, that is for certain.

And I can remember saying to him, "Dick, you know the President better than I, you should call the President." I have the recollection—excuse me, sir.

Mr. BOB WILSON. I am sorry to interrupt you, sir.

In General Walters' statement, the memorandum for the record on the 13th of July, he is talking about his conversation with you and he said that you told the President in 1968 that he should beware of his subordinates who would try to wear his commander-in-chief stripes. "I agreed saying in my view the President should be protected himself from appointed protectors who would harm him while covering their own mistakes." It could be this was a subsequent meeting on the 12th of July?

Mr. GRAY. That is right, it could be, sir.

Mr. BOB WILSON. He wrote this memorandum for the record on the 13th, recalling this incident.

Mr. GRAY. That is the one relating to the meeting on July 12. It could very well be that, Congressman Wilson.

Mr. NEDZI. Have you read General Walters' memorandum?

Mr. GRAY. Yes, sir, I have.

Mr. NEDZI. When did you receive copies of those?

Mr. GRAY. I received copies of those from the counsel to the Senate Appropriations Subcommittee prior to my appearance before that committee, sir.

It was last week. My counsel reminds me that we did see these briefly in passing in the Office of the Assistant U.S. Attorney Silbert, but we didn't have any opportunity to look at them at all, other than to know they were Walters' memorandum, that is all.

Mr. NEDZI. What was the purpose of giving you the memorandum?

Mr. GRAY. The Senate Appropriations Committee?

Mr. NEDZI. Yes.

Mr. GRAY. I don't know what the purpose of it was. It was probably to let me see what General Walters was saying with regard to these meetings.

Mr. SACHS. If the chairman will permit me, perhaps I can comment on that because I think I have more direct knowledge than Mr. Gray.

Mr. NEDZI. Certainly.

Mr. SACHS. When we received word I think initially by telegram from Senator McClellan's subcommittee I placed the call to James Calloway, whom I understand to be counsel to the Appropriations Committee, I believe, and in the course of arranging for the date for Mr. Gray's appearance. I either asked or he volunteered, I really don't recall, Mr. Chairman, whether or not testimony already given would be made available to us for our review.

I believed he volunteered it, frankly. But he furnished us the testimony of Ambassador Helms, and the memorandum of General Walters. He did not furnish us with the testimony of General Walters, because that testimony was given the very day before Mr. Gray appeared, and had not yet been transcribed.

He subsequently furnished us General Walters' testimony, and Mr. Gray's own transcript.

So that is how we came into possession of all those documents.

Mr. BOB WILSON. Did he give you the document, the deposition of General Walters?

Mr. GRAY. The affidavit?

Mr. SACHS. No, sir, not as a writing, Congressman, but if I understand you correctly, if you are referring to an affidavit of General

Walters, it is my recollection the affidavit of General Walters, whether the one you are referring to or not I don't know, is contained in the testimony of Ambassador Helms in that subcommittee. It is printed there, page after page.

Mr. NEDZI. Why didn't you make the same request of this committee?

Mr. SACHS. That suggests to me, sir, it was not by request in the first place, but perhaps an offer by Mr. Calloway. The only conversation I have had with this committee on that subject, Mr. Chairman, is a request of Mr. Hogan to make available Mr. Gray's transcript when it is concluded. I have simply not made such a request. Maybe we have now read to the point at which one becomes inundated with the same material again and again, maybe that is an explanation for my non-request. I really can't explain it any better.

Mr. NEDZI. If you can't, nobody else can.

Go ahead.

Mr. GRAY. I can remember standing there, talking with General Walters, and as I testified, I can't remember which one of us said we ought to call the President, or the President ought to be notified. One of us did. And I do distinctly remember saying, "Dick, you ought to call the President because you are closer to him than I."

And I can't really recall what he said back to me. I don't know whether he said, "Pat, you ought to call, because these are people you want to interview." I just don't know. I cannot remember.

But in any event, when General Walters left the office, I issued the orders to interview Ogarrio and Dahlberg.

They were interviewed and all the rest, the uncovering of the dollars and all of the rest of it transpired.

Now, I sat there and I finally—I kept thinking about this and I finally just picked up the phone and told my telephone room to call Clark MacGregor for me, to get him. At 10:47 a.m., I spoke to Miss Jablonski at San Clemente, Calif., via the White House.

I was told—I said to Miss Jablonski—first, I was told Mr. MacGregor was out and then I talked with her, and I said "I have some information that I want to give to Mr. MacGregor regarding Watergate." I called Mr. MacGregor. I said I knew he was a competent professional. I knew he headed up the Legislative Affairs Office for the President. I believed him to be close to the President. I also considered he probably had no knowledge whatsoever of the Watergate situation at all. And I thought that I would give the message to him. Quite frankly, Mr. Chairman, I just didn't have the guts to pickup that phone and say "I want to talk to the President."

At 10:51 a.m., Mr. MacGregor called. I said to him, "Clark, Dick Walters and I"—these are perhaps not the verbatim words, but they are very, very close to it—"Clark, Dick Walters and I are concerned, have some unease because of confusion which has developed regarding CIA interests in or not in people that the FBI wishes to interview."

I went on to state we both felt that this would be injurious to our respective organizations, and could indeed even be damaging to the President.

I am pretty certain I said to him it could also be wounding to the President. I asked him if he would convey this information to the President. He said, to the best of my recollection, either that "I will take care of it" or "I will handle it."

Then at 11:28 a.m., the President called me. I was surprised because I wasn't expecting any call from the President. But the President first congratulated me on the successful conclusion of the hijacking the day before in San Francisco, and asked that I pass his congratulations to the agents in San Francisco, and I assured him that I would do so, that they would be very, very pleased to know that the President had called to congratulate them, and I thanked him. Then I said, "Mr. President, there is something that I want to speak to you about. Dick Walters and I"—and I just blurted it right out—I said, "Dick Walters and I feel that people on your staff are trying to mortally wound you by using the FBI and the CIA and by confusing the question of CIA interest in or not in people that the FBI wishes to interview." I said to him I had just talked to Clark MacGregor, and had asked him to speak to you about this. There was just a slight pause and the President said, "Pat, you continue to conduct your thorough and aggressive investigation."

Mr. Chairman, as you know, I have seen the Walters memorandums. The only other thing that I would like to add to my testimony here is that when I saw the first newspaper articles coming out with regard to testimony given before the Senate—a Senate subcommittee concerning this matter, I was very surprised to learn of a White House meeting. That was the first—it was almost a spontaneous reaction on my part when I read that newspaper article.

I came home that evening and I sat down and I just wrote and wrote and wrote about that newspaper article, because there were things there that rang no bells with me whatsoever.

Mr. NEDZI. What date was this?

Mr. GRAY. I don't know the exact date, but it was the first article that came out. I think it was Senator Symington's committee.

Mr. BOB WILSON. Regarding General Walters' testimony, is that right?

Mr. GRAY. Yes, sir. That was the one where there was—I remember it was the Washington Post and they were ticked off in numbered paragraphs.

It was the Washington Post of May 16, 1973.

Mr. BOB WILSON. Are those the notes you wrote at the time?

Mr. GRAY. That is right, sir, those are the notes I sat down and wrote that evening.

Mr. ARENDS. What prompted you to do that, to sit down and write all those, the inaccuracies in the story?

Mr. GRAY. I think it was shock in the fact that I really can't come to a conclusion, Mr. Arends, and say the inaccuracies. I can say that I believed them to be inaccurate, and I went down and—

Mr. BOB WILSON. I wonder, would it be possible, Mr. Chairman, that we read the notes he made at the time which would be an immediate recollection.

Mr. HÉBERT. He put the article in the notes.

Mr. GRAY. We can leave, if you would like—

Mr. NEDZI. Do you have copies of the notes?

Mr. GRAY. No; we don't. These are all the originals.

Mr. NEDZI. Do you mind if we make copies for the record?

[Notes in committee files]

Mr. GRAY. I would certainly turn that over to counsel, yes, Mr. Chairman.

Mr. NEDZI. All right.

Mr. HOGAN. Do you want to read them at all now into the record?

Mr. NEDZI. Would you read the notes into the record at the present time?

Mr. GRAY. All right, sir.

Mr. SACHS. Before he does, and with the chairman's permission, may I make one observation I think the chairman will appreciate the reason for. Of course you are welcome to the notes and all they imply, et cetera. They are not always, as you will soon see, matters of recollection. There are elements of conjecture and questions.

Mr. GRAY. That is right.

Mr. SACHS. And opinion. It is more than merely a statement of recollection. I don't want the committee to believe we are tendering it as anything other than it is.

Mr. GRAY. That is right.

Mr. NEDZI. This is a congressional hearing and not a court of law.

Mr. SACHS. It is not admissible, as I know you are sure, Mr. Chairman, in a court of law, but you are welcome to read them.

Mr. HÉBERT. As I understand it, this is an immediate reaction and shock by Mr. Gray, and it is an immediate response to that?

Mr. GRAY. That is correct.

Mr. BOB WILSON. I think that is important.

Mr. HÉBERT. Most important.

Mr. NEDZI. You may proceed, Mr. Gray.

Mr. GRAY. This was prepared May 16, 1973, at 9 p.m., Washington Post page A-8, Statement of Senator Symington.

This is page 1.

"Helms and Walters present in JE's office. HRH present.

"Walters did not tell me of June 23, 1972 meeting with JE and HRH.

"Did not tell me on June 23, 1972 at our 2:34 P."—I have not M—"meeting that senior people at the White House whom he did not name had told him the pursuit of the investigation of Mexican financing would uncover some of the Agency's clandestine activities.

"He never mentioned that 'senior people at the W. H.' told him to say this?

"If he had, I would have asked what does the CIA know about this, or are you just a messenger, and why is the W. H. telling you what will or will not uncover some of the Agency's clandestine activities. He told me flat out that this was the CIA position not that Senior people at the W. H. had told him, et cetera.

"The appointment was made by a person who identified his or herself as secretary to General Walters who made the appointment with my secretary at 1:56 p.m., June 23, 1972, for 2:30 p.m. that afternoon." Then I wrote in caps "Who made the appointment for him?"

Then I have a side note up here at the top "With both Helms and Walters present they acquiesce in this move to send Walters over to give me a message they both know to be false. At least Helms does, because I talked to him on June 22, 1972 and he said no CIA involvement."

"Why, upon his return to CIA and learning that investigation of Mexican financial affairs (and what affair was it) would not compromise any CIA clandestine assets did he not inform me? He had just told me that it would and he did not tell me that senior White House people told him to tell me. Now he finds out that investigation will not compromise (on his return to the Agency that very afternoon) and he does not tell me???"

And then I have a note up here: "Helms had just told me on June 22, 1972 that there was no CIA involvement. Why did they buy this trash on June 23, 1972?"

"He meets with Mr. Dean three times and does not tell me of any of these meetings.

"(a) On June 26, 1972 he tells Dean Agency will not be compromised. He does not tell me. Again maybe somebody knows something I do not know. Like I asked HP"—that stands for Henry Petersen—"in April '73 why he and RGK"—that is Richard G. Kleindienst—"refused FBI files to JWD"—that is John Wesley Dean—"and did not tell me." I believe "This was on April 25" I have written in here. "And when I asked HP in April 1973 if he or RGK knew something I did not know about JWD, he said No.

"(b) He and Helms agree that Walters handled the situation just right, but how about the FBI? Walters did not tell me of what he learned when he returned to the CIA or of his June 26, 1972 meeting with Dean, or of his other meetings. Is this just right?

"(c) On June 27, 1972, Walters is summoned to Dean's office again re use of CIA funds to pay bail or salaries of of"—and I wrote two "of's"—"The accused persons. Again no report to FBI." And I underlined.

At the top of each one of these pages I have written the time it takes to write, like I wrote at the top of page 2 "Prepared 5-16-73, at 9:37 P." At the top of page 3 I have written "Prepared 5/16/73 at 9:47 P."

"(d) On 6/28/72, Walters is summoned again to Dean's office and asked if there could have been some CIA involvement (in what) that Walters did not know about. Walters stated there could be. Again no report to the FBI! This was the very day on which he and Helms were slated to meet with me at 2:30 P.M. Did Helms know of this Walters to Dean meeting, and when if ever did he learn of it? And how, if anyone at CIA (Helms or Walters) received a call from J"—that is John Ehrlichman—"similar to the one I got telling me that meeting with Helms was not necessary? Where they called and told that meeting with Gray is not necessary?

"In his statement re the Walters-Gray July 5 meeting, why does he wait until July 6 to tell me that an investigation of the Mexican financing would not damage (endanger) any CIA assets, that CIA was totally unconnected with the matter, and that CIA had no interest in stopping any investigation. HE KNEW THIS ON AFTERNOON OF 6/23/72 WHEN HE RETURNED TO THE CIA AND CHECKED INTO IT.

"And why does he not say that he delivered me a writing signed by himself. (Felt and Bates read this writing and Felt must still have it.)"

If I could digress for just a moment to say, Mr. Chairman, that was the memorandum I referred to earlier.

Then I write: "Did Walters give it"—a copy—"to Senate Committee on Armed Services and to the prosecutors? And have the prosecutors tried to get this writing from the FBI? It is classified secret but there is no legitimate secret info in it. It is all phony info as it now turns out and the document in no way is entitled to secret classification."

I have to revise that because I was thinking in terms, when I wrote this, of one-page writing. This was my recollection of it, saying that there was just no CIA interest in Ogarrio and Dahlberg. So I have to change this. I should say, Mr. Chairman and the members of the committee should realize that I was sitting there writing this in real anger, and you know it has got to be viewed in that vein.

"Walters did not at any time tell me the story of his meeting with HRH and JE and that he had been told to convey his previous message to Gray. This is just plain false" and I underlined it, period. "If he had told me this at the July 5 meeting"—and that should be July 6 meeting—"I would have made him sit in that red leather chair while I called the President and gave him this most remarkable revelation.

"What he did say while we were musing and philosophizing and after leaning back in the chair and putting his hands behind his head was that he had come into an inheritance and was not concerned about his pension and was not going to let these kids kick him around any more. He did not name them nor did he spell out how they had kicked him around." And in all caps, "I did not ask." At the time I was thinking of JWD"—and this is Mr. Dean's initials—"and others at his level at the White House when Walters mentioned kids."

That concludes the writing that I made on that.

Mr. ARENDS. Could I ask a question.

Mr. NEDZI. Certainly.

Mr. ARENDS. You said you wrote that in a period of anger. Were you mad at the fellow who wrote the article, or were you mad at the Senate who reported it as they did in the paper, or were you mad at General Walters?

Mr. GRAY. I was mad at General Walters.

Mr. BOB WILSON. Did you have a feeling you were being used by General Walters in a sort of a plot here to cover up?

Mr. GRAY. No, sir. At this point in time?

Mr. BOB WILSON. Yes, about the time you were writing it. In other words, you felt that you were treated very shabbily.

Mr. GRAY. Yes, I certainly, Congressman Wilson, had the feeling there were things here that I felt should have been told to me.

Mr. BOB WILSON. Yes.

Mr. GRAY. That is right.

Mr. NEDZI. Prior to this appearing in the press did you have the opportunity to examine the Walters memorandums?

Mr. GRAY. No, sir. This was May 16, as I recall.

Mr. NEDZI. When did you see the memorandums?

Mr. GRAY. I don't know.

Mr. SACHS. Perhaps again, I understand counsel has no role in these proceedings and I certainly don't mean to intrude.

Mr. NEDZI. It is perfectly all right if you can shed some light on the subject we are pleased to hear it.

Mr. SACHS. All right, I will try. It was certainly after May 16 that we first saw the Walters memorandums in the offices Mr. Silbert and Mr. Glanzer, the U.S. Attorney's office. When I say "saw them", literally meaning only that. I don't think either one of us were able to read a whole page of any. Mr. Glanzer had them in his hand, he would show us a line here and there and that is all. We received them from Mr. Calloway I believe in the early part of last week—either Monday or Tuesday, not this week but last week, substantially after the May 16 newspaper article.

One other thing I would like to say for chronology sake here, and that is this: I think the committee ought to know, if it doesn't, Mr. Gray was interviewed on the evening of May 10. The first interview of any kind by any official bodies in the Watergate investigation, by investigators for the Ervin committee. It was in that evening session, which was not on the record except there were secretaries taking notes—it was not on the record as this proceeding is, nor was it under oath. In any case, it was a preparatory session which Professor Dash and six or seven other people were present on his staff. Mr. Gray discussed his call from the President, his call from Mr. MacGregor, the whole CIA saga as he then understood it to be, and I think it is fair to say, Mr. Chairman, that all revelations since then concerning the CIA involvement have, in my humble opinion, flowed from that discussion by Mr. Gray. I don't want the record to appear as if Mr. Gray's testimony on these matters only followed revelations such as the ones he reacted to. He had already discussed the General Walters visit and the call to the President before the Ervin committee investigators and indeed before the time of Mr. Silbert and Mr. Glanzer.

Mr. NEDZI. May we proceed with the chronology?

Mr. GRAY. Yes, sir. That, basically, I think that I testified as to the call to the President—that, basically, concludes the overview remarks that I wanted to give, except really, basically, to say to the committee that having made that report to the President, and from that day forward throughout the investigation we had no further concerns of this kind. There were no problems involving CIA, and I believed then that if there was anything to the concerns that I had stressed to the President, or to Mr. MacGregor, I would hear further to this matter. I did not hear further.

Mr. NEDZI. Were there any other contacts between you and General Walters or anybody at the CIA subsequent to this time?

Mr. GRAY. There were meetings. I think the July 12 meeting, which you know, I have remembered very, very little about. There are later meetings—I will really have to check my records—I think there may have been another meeting with General Walters the 28th of July, yes, sir.

Mr. BOB WILSON. July 28?

Mr. GRAY. Yes, sir, the 28th of July. I checked those. He did meet with me.

Mr. NEDZI. What was the substance of that meeting, to your recollection?

Mr. GRAY. I had just a very brief note on the 28th of July. I had called earlier, I think, on this, and I have just a very brief little

note about a Mr. Cleo that I discussed with Mr. Felt on July 21, 1972. But I frankly did not remember the July 28 meeting at all.

Mr. BOB WILSON. Mr. Chairman.

Mr. NEDZI. Yes, Mr. Wilson.

Mr. BOB WILSON. In General Walters' testimony, Captain Gray, he refers to the July 12 meeting at the time when he reports on your telephone conversation with the President.

Now, that should be clearly checkable, because he says, "Last Friday the President called you," and we only have to check the date when the PSA airplane was recovered by the FBI to check and see whether it is the 6th of July—

Mr. NEDZI. Friday was the 7th, Mr. Wilson.

Mr. GRAY. It is Thursday the 6th, I know, because I have mine dated.

Mr. BOB WILSON. That was the time, on July 6 was when you talked to him about the President's call?

Mr. GRAY. No, sir, not when I talked to him about the President's call. I talked to him about the President's call the following meeting that we had.

Mr. BOB WILSON. On the 12th of July?

Mr. GRAY. Yes, sir.

Mr. BOB WILSON. All right. He quotes you on the conversation, and you have read it, on the 13th of July memo, but he says toward the end of the conversation "The President asked him"—meaning you—"if he had talked to me"—meaning General Walters—"about the case. Gray replied that he has. The President then asked him what his recommendation was in this case, and Gray had replied the case could not be covered up and it would lead quite high and he felt the President should get rid of the people involved."

Now, in your recollection of the conversation, did you tell him both you and General Walters felt this way, or did you just say this was your personal opinion?

Mr. GRAY. My recollection, Congressman Wilson, of that conversation with the President is just as I have reported it here, that I started off by saying Dick Walters and I feel—

Mr. BOB WILSON. You feel you did quote it that way?

Mr. GRAY. Yes, sir.

Mr. BOB WILSON. He quotes you as saying the President then said "I should get rid of whoever is involved no matter how high." You reported that was his recommendation?

Mr. GRAY. I have no recollection of that, and I have no reason to believe that a President would ever—any President would ever say that to an FBI Director. I just have no—

Mr. BOB WILSON. It is contrary to what you testified to earlier?

Mr. GRAY. That is right, I have absolutely no recollection of that.

The only thing that I should say on this is that throughout my telephone conversations with Mr. Dean, at least certainly half a dozen to a dozen times, I would say to Mr. Dean, "We ought to make absolutely certain that we expose whoever is involved in this, no matter how high up they are." And Mr. Dean would say, "No matter how high," and I would say "Yes, no matter how high."

Now, we could have been discussing that. That is the only possibility that that "how high" could have gotten in there.

Mr. BOB WILSON. Of course he is relating what you said the President said, so it could get garbled in the translation?

Mr. GRAY. Yes, I have absolutely no recollection. My recollection of the call with the President, and I thought about it a long, long, long time, is just as I have testified to.

Mr. NEDZI. Mr. Gray, your first contact with General Walters on this matter was when? You say your records disclose that his secretary called your secretary for an appointment.

Mr. GRAY. That is correct, sir.

Mr. NEDZI. On June 23rd.

Mr. GRAY. That is correct, sir, at 1:56 p.m.

Mr. NEDZI. And at that time General Walters came to your office and stated that if the FBI conducted its investigation, in substance, vigorously, then they may trespass on some covert sources and assets which the CIA is interested in?

Mr. GRAY. He is not referring to the total investigation. It was just that investigation into what we termed either the CIA money chain, or the political money chain, that is what we called it in the FBI.

Mr. NEDZI. The Mexican connection?

Mr. GRAY. I am not sure we called it the Mexican connection. I always referred to it in my discussions with my top people as the CIA money chain or the political money chain.

Mr. NEDZI. The day before that meeting you and Mr. Helms had had a conversation. Was that a telephone conversation?

Mr. GRAY. Yes, sir, I called Mr. Helms.

Mr. NEDZI. And at that time Mr. Helms indicated that there were no things that the CIA was concerned about.

Mr. GRAY. Yes, sir, but my recollection on that call was I was not really addressing myself right to this CIA money chain, or the political money chain. My note here is to tell him of our thought that we may be poking into a CIA operation, and to verify or deny. He said he had been meeting—

Mr. NEDZI. What prompted you to say something like that to him?

Mr. GRAY. Because of the fact in the 2 days of briefing myself and the top executives of the FBI had been considering all the possible theories. And one of them was that there was a CIA involvement in Watergate. I felt that I should call Helms.

Mr. NEDZI. Had Dean expressed this concern to you during those preceding days?

Mr. GRAY. I can't remember whether he expressed that concern to me in any of those preceding calls, but I have the recollection that in that evening meeting, that 6:30 p.m. evening meeting, that this was the time that it came up.

Mr. NEDZI. Your call to Helms was just prior to that evening meeting?

Mr. GRAY. That is correct, sir, it was at 5:23 p.m., and I think I testified earlier it is probable that I may have told Mr. Dean of my call to Mr. Helms.

Mr. NEDZI. You can't recall whether you did or not?

Mr. GRAY. No, sir, I can't recall with any—

Mr. NEDZI. Why would you not tell him?

Mr. GRAY. That is why I think I probably did tell him. But I can't say beyond a shadow of a doubt I did.

I have that recollection of that.

Mr. NEDZI. Then you had a whole series of telephone calls with Mr. Dean, with the knowledge that no one in the FBI ever indicated that there was a problem, except the one conversation with Walters.

Didn't any suspicions arise in your mind?

Mr. GRAY. No, sir, they really didn't. They really didn't. Because, you know, it is one of those things where people in the intelligence business know certain things and they don't always communicate it to others, particularly with reference to the need-to-know basis, and the compartmentalization concept. I did not become suspicious at all.

Mr. NEDZI. Despite the fact that you were obviously dealing with something extremely sensitive that required White House intervention, no questions were raised in your mind?

Mr. GRAY. No questions were raised in my mind except as we went along and this continued and I began to get these varying reports when I called Mr. Helms on June 27th, and I asked about Mr. Ogarrio and he says "No interest in CIA." And then my meeting on June 28th is ordered cancelled by Mr. Ehrlichman. And then I go ahead and order on the 28th that LEGAT interview Mr. Ogarrio, there is a cancellation on the 29th. When you review all of those things, as we did in our July 3d meeting there, I decided that we had to have the writing.

Mr. NEDZI. General Walters stated the following:

"An appointment was made for me to see Mr. Gray at 1430 that same day. I went over and told him that I had been directed by top White House officials to tell him that further investigation into the Mexican aspects of the Watergate episode might jeopardize some of the Agency's covert actions in that area."

Now, you, today, under oath, categorically deny he ever made that statement to you?

Mr. GRAY. That he had been directed by White House——

Mr. NEDZI. Yes.

Mr. GRAY [continuing]. People to tell me this. That is in the first meeting?

Mr. NEDZI. That is the meeting to which he refers.

Mr. GRAY. Absolutely. I have no recollection——

Mr. NEDZI. I didn't ask you whether you had a recollection. Mr. Gray. You said earlier he never made that statement to you. Now do you say it today, now, he did not make that statement to you?

Mr. GRAY. Yes, sir, I would have to, because I have no recollection of that statement at all, of him saying that to me.

Mr. NEDZI. He made that statement under oath.

Mr. GRAY. Yes, sir. I would expect that.

Mr. BOB WILSON. I must say that statement under oath, Mr. Chairman, varies somewhat from the statements of his written memorandums.

Mr. NEDZI. I have made that observation before, Mr. Wilson.

General Walters, in his memorandums dated June 28, said the following:

Haldeman then stated that I could tell Gray I had talked to the White House and suggested the investigation not be pushed further. Gray would be receptive as he was looking for guidance in the matter.

Mr. GRAY. Yes, sir, and I have no way of accounting for that other than to say that this undoubtedly came about because of the fact that

in my conversations with Dean I had discussed with him the various theories that we were pursuing in this case, and one of those theories was indeed CIA involvement, and even the possibility of right-wing Cuban operation.

Mr. NEDZI. May I have you comment to this statement, again reading from the memorandum of June 28.

Director Helms said that he had talked to Gray on the previous day and had made plain to him that the Agency was not behind this matter, that it was not connected with it, and none of the suspects was working for nor had worked for the Agency in the last two years. He had told Gray that none of his investigations was touching any covert projects of the Agency current or ongoing.

Mr. GRAY. The extent of that language I do not recall. My recollection is exactly as I wrote it down at that 5:37 p.m. note. He said he had been meeting on this every day with his men. They knew the people. They cannot figure out this one. There is no CIA involvement.

Mr. NEDZI. He didn't suggest to you any possible involvement outside of what you were discussing?

Mr. GRAY. No, Mr. Chairman. I don't believe that he did. I have no recollection of it, and the recollection I have is exactly that I have here.

Mr. NEDZI. Another memo dated June 28. General Walters said that he had come to see you after talking to the White House. Did he say that he talked to the White House before he came to see you?

Mr. GRAY. This is the one that I have absolutely no recollection on. I didn't even know that he was at the White House. But it is certainly true Mr. Dean had called me to say that General Walters was coming to see me and urged that I speak with him.

Mr. NEDZI. He said,

I added that I was aware of the Director's conversation with him the previous day and while the further investigation of the Watergate Affair had not touched any current or ongoing covert projects of the Agency, its continuation might lead to some projects. I recalled that the FBI and the Agency had an agreement in this respect and that the Bureau had always scrupulously respected this. Gray said he was aware of this and understood what I was conveying to him.

Was there any special meaning to the phrase "and understood what I was conveying to him"?

Mr. GRAY. No, sir, only with reference to the agreement. As I said earlier, I had not read it, but I knew in the intelligence operations that we did not uncover one another's sources. I had learned that much in the 6 weeks I had been in the FBI up to that point.

Mr. NEDZI. You had no other understanding or apprehension with respect to Walters coming to you in this regard?

Mr. GRAY. No, sir.

Mr. NEDZI. Walters further says,

His problem was how to low key this matter now that it was launched. He said that a lot of money was apparently involved and there was a matter of a check on a Mexican bank for \$89,000.

Did you ever express such a concern to General Walters?

Mr. GRAY. I certainly may have. But I don't know that I said "low key" it. But generally what was running through my mind was how to handle it without uncovering any CIA assets, and indeed the orders were issued to the legal attaché at Mexico City to continue his discreet inquiries with regard to the check. That is the only possible explanation I can offer for those words he has in that memorandum.

Mr. NEDZI. "Gray then said that this was a most awkward matter to come up during an election year and he would see what he could do." Did you say it was awkward?

Mr. GRAY. I probably did, because it was certainly obvious, the political implications, in view of the fact the security chief of the Committee to Reelect the President was involved I did indeed probably say that to him. I cannot deny it, because I have no specific recollection of either saying it or not saying it.

Mr. NEDZI. This does have a suggestion of doing something improper, though, doesn't it?

Mr. GRAY. I didn't read it that way at all, Mr. Chairman. I certainly didn't intend to do anything improper, other than to try to handle the CIA aspects of the investigation as discreetly as possible.

Mr. BOB WILSON. If I might interject, Mr. Chairman, he is making a pretty obvious statement of fact at that time.

Mr. NEDZI. I concur.

Mr. BOB WILSON. As a Republican, I can say that.

Mr. NEDZI. Further he says, and again it is the tone of this which is troublesome, Mr. Gray, and if it does accurately reflect the facts, indeed it suggests improper conduct on somebody's part:

I repeated that if the investigations were pushed "south of the border," it could trespass upon some of our covert projects and, in view of the fact that the five men involved were under arrest, it would be best to taper the matter off there. He replied that he understood and would have to study the matter to see how it could best be done. He would have to talk to John Dean about it.

Mr. GRAY. Once again, what I was conveying to him was the fact that we would have to handle this discreetly if there was CIA involvement, so we are not going to turn this over, and that I would very definitely tell John Dean of his report to me regarding the CIA involvement.

But certainly at no time did I tell John Dean we were going to continue our investigation on the fringes to try to ascertain all that we could ascertain about these bank checks—four bank checks that we were involved with in Mexico City.

Mr. NEDZI. I noted further this statement: "I left saying that my job had been an awkward one and he had been helpful and I was grateful."

Why would his job be such an awkward one?

Mr. GRAY. I don't know, sir. I have no idea as to why his job would be such an awkward one.

Mr. NEDZI. Did he make that statement to you?

Mr. GRAY. I can't recall him making that statement at all.

Mr. BOB WILSON. I might say, Mr. Chairman, the clear implication of General Walters' memos is that he went to Captain Gray and tried to tell him that this was a very serious political matter, and that we ought to go easy on it. From what Captain Gray has testified, I think there is some question as to whether he actually did carry that message.

Mr. NEDZI. In the memo dated July 6, covering conversation or meeting which General Walters had with you, Mr. Gray, on July 6, he states: "He himself"—referring to you—"had told Ehrlichman and Haldeman that he could not possibly suppress the investigation of this matter. Even within the FBI, there were leaks."

Did you tell Ehrlichman and Haldeman further investigation—

Mr. GRAY. Certainly at no time did I tell Ehrlichman and Haldeman I could not possibly suppress the investigation of this matter, and at no time did anyone ever discuss within the FBI or without the FBI, with me, the suppression of the investigation.

With regard to "even within the FBI there are leaks," the only thing that I can possibly relate this to is that I had been saying publicly indeed in press availabilities, as traveling about the country, it is not possible for any one man to control an investigation within the Federal Bureau of Investigation. To do that you would have to control everybody from the Attorney General right on down through the assistant U.S. attorneys to the case agent in the street. General Walters and I could very well have discussed that facet of it, but I certainly did not make that statement to him, nor did I ever tell Ehrlichman or Haldeman. I had only one conversation, maybe two or three conversations, with Haldeman on a burglary into the President's physician's office out in the Los Angeles area. Dr. Jack Lundgren, and I remember I was over at Chestertown, Md., making an evening appearance at Washington College when the call came to the residence of Dr. Peter Tapke on that. That is the only telephone conversation I had with Mr. Haldeman throughout.

Mr. NEDZI. Did you meet with him personally at any time during this period?

Mr. GRAY. Mr. Haldeman, no, sir.

Mr. HÉBERT. Did you say a burglary in the President's physician's office?

Mr. GRAY. This is what occurred, yes, sir. That would be a matter of police record on the blotter out there with the Los Angeles Police Department.

Mr. HÉBERT. Was that public?

Mr. GRAY. I don't know whether it was public or not, sir.

Mr. NEDZI. I read it somewhere in the press.

What conversations did you have with Mr. Ehrlichman?

Mr. GRAY. I don't recall all of them. There were about eight telephone conversations all told throughout this entire matter. I recall the one on the cancellation of the meeting. I recall the first one in the Senator's office on the Hill. I recall another one, I think—I can't remember whether this was to set an appointment or not set an appointment for that June 26 meeting. I can't remember who actually set that appointment for the evening of June 28 in Mr. Ehrlichman's office.

Mr. NEDZI. Didn't it strike you as unusual Mr. Ehrlichman would cancel an appointment which you made with Mr. Helms?

Mr. GRAY. It didn't strike me as unusual because he is the Assistant to the President. In the administration the Assistant to the Presidents have given orders, and I accepted the order. I took it as an order.

Mr. NEDZI. Is this a factual statement, to the best of your recollection, also quoting from the July 6 memo of General Walters?

"He"—referring to you—"had called in the components of his field office in Washington and 'chewed them out' on this case because information had leaked into the press concerning the Watergate Case which only they had."

Mr. GRAY. Yes, sir, that is a factual statement. And that is why I think that I did discuss leaks with him, because on the 24th day of June I did call in the people from the Washington field office who were working this case, and we did have that meeting.

Mr. NEDZI. And yet, was that subsequent when Dean had called you about leaks, you told him there were no leaks in the FBI?

Mr. GRAY. That was the earlier call on the 23d. That is right, I told him the leaks had not come from the FBI. They continued that week. And then in fact Time magazine was continuing a call with regard to certain things that I had ordered and not ordered, that I had refused an agent's request to subpoena toll calls of Charles Colson. That was totally false.

Another one that I had met with Mr. Mitchell out in California on the weekend of the 17th and 18th and 19th when I was out there. That was false.

Mr. NEDZI. That is not a leak, then, if it is false.

Mr. GRAY. No. But these were the rumors and allegations that were going around and that this information was leaking from the FBI and I knew it couldn't be leaking from the FBI.

Mr. BOB WILSON. The next day because of the story in the paper you called in your agents and said "There must be a leak," is that it?

Mr. GRAY. I called them in, and I said: "There is no place in the FBI for any individual who cannot keep their counsel when we are conducting an investigation like this." Yes, sir, I called them in. Assistant Director Bates was there, and I think the Acting Associate Director, Mr. Felt, was there, and the SAC, the Special Agent in Charge, Mr. Kunkel, was there. They all remember that very well. And it will appear a recounting of it will appear in the Bates narrative summary which we will furnish a copy to the committee. (See p. 211.)

Mr. BOB WILSON. But the point I think the chairman was making, Captain Gray, it was on the day before you told Mr. Dean that there weren't any leaks, and the next day you called your staff in and said: "These leaks have got to stop." What had happened in the meantime? Were there newspaper articles?

Mr. GRAY. It was the story Time magazine was going to come out with. That was a part of this whole week. But there were other rumors and allegations that were flying around.

Mr. BOB WILSON. I see.

Mr. GRAY. There were five more men involved, things like that I remember specifically. I think another one was there was a difference between the MPD inventory of the suspects' effects and the FBI inventory. Those kinds of things were flying around wildly that first week.

Mr. NEDZI. Reading further from the July 6 memo, General Walters stated that: "He"—again referring to you—"was prepared to let this go to Ehrlichman, to Haldeman, or to Mitchell for that matter."

Was any statement like that ever made by you?

Mr. GRAY. I certainly don't recall it. What he means by that, I don't know. I mean, that is something that he would have to be asked. But there is no mistake about it. I had said repeatedly to John Dean, and I could very well have said to General Walters, no matter how high up this goes, we are going with it. That is the only thing that I can account for on that, because I did not make such a statement as that.

Mr. NEDZI. Did you express concern to General Walters about talking to Mitchell, concern that your confirmation hearings, there you might be asked whether you talked to Mitchell about this case?

Mr. GRAY. I think I very probably did. I think this has got to be placed in the proper context—this was at a time when we were discussing who to call, who should call the President, should the President be called, how should we get a message to the President? And I always, in public and private, I always said if nominated and if confirmed. But I very likely said here that I would not want to talk to Mr. Mitchell because, if nominated, I would have to have confirmation hearings before the Senate and one of the questions asked me undoubtedly would be, "Who have you talked to during the conduct of this investigation?" I undoubtedly said that.

Mr. NEDZI. Following this July 6 meeting, you again met with General Walters on July 13, and it was at that time that you related to him at least a portion of the conversation you had had with the President on July 6. General Walters in his memo said: "Last Friday," but apparently was in error because Friday was the 7th and your conversation was on the 6th.

Mr. GRAY. On the 6th, yes, sir.

Mr. NEDZI. Following your meeting with General Walters on the 6th?

Mr. GRAY. Yes, sir, my records clearly indicate that. There is no question about that in my mind.

Mr. NEDZI. As far as you are concerned, this is a fabrication that the President said "Then I should get rid of whoever is involved no matter how high?"

Mr. GRAY. Mr. Chairman, I can't say that is a fabrication because that is jumping to a conclusion. The only thing I can say is that I did not say that to the President, and have no recollection of saying any such thing to the President. I have testified here as carefully—

Mr. NEDZI. According to General Walters' account of what you told him, the President said "Then I should get rid of whoever is involved no matter how high."

Mr. GRAY. I think General Walters is confused here in this as he is at the start of this paragraph, because I think what he is referring that to—what he is referring to there is my remark that I consistently made, and I repeated it before this committee, in my conversations with John Dean, and I undoubtedly said it any number of times to General Walters in our conversations that we were going to pursue this investigation no matter how high it led. I can't conceive of any President saying to an Acting Director or Director of the FBI, "Then I should get rid of whoever is involved no matter how high." I just didn't say that to the President, I know that.

I think it should be—

Mr. BOB WILSON. The point is whether the President said that to you, that is what General Walters said, the President said that to you, he is advising you, "Well, then I should get rid of whoever is involved."

Mr. GRAY. I have absolutely no recollection to that, and testify under oath my recollection of the telephone call I had with the President is exactly as I have related it to the committee.

Mr. BOB WILSON. I think a call from the President would be pretty clear in your mind. This reference is General Walters repeating what he recalls you said a day later.

Mr. GRAY. Right. He—I would point out, Mr. Chairman, at the top of the paragraph, “he thanked me and said this case could not be snuffed out and it would lead quite high politically.” At that point in time I don’t think anybody in the FBI had any knowledge where this case was going to lead. There wasn’t anybody in the FBI that had any interest in snuffing it out or was even discussing snuffing it out. Then General Walters writes Dahlberg was in the clear, he had gotten a check from Maury Stans and had deposited it in the Mexican bank. It was undoubtedly political money. This is just not so, because the facts are——

Mr. BOB WILSON. This is what he said you said.

Mr. GRAY. That is right, this is what he said I’m saying but I couldn’t possibly have said that. If I talked to him about Dahlberg at all, I would have told him exactly what the facts were as I knew them then to be. Dahlberg had no deposit in any Mexican bank. His check was in the Bank of Boca Raton in Florida. There was no check in the Mexican bank. I think General Walters was confused on what was said. He didn’t know this thing as well as I knew it.

He has some errors here in recounting what was said or not said.

Mr. BOB WILSON. I might observe, Mr. Chairman, previous testimony indicates a number of people from the FBI write stories and novels and I think General Walters qualifies as a fiction writer, from what I can tell.

Mr. NEDZI. General Walters is an intelligence officer of high reputation until this time.

Mr. BOB WILSON. Yes.

Mr. NEDZI. Further in that memo General Walters quotes you as quoting the President, saying, the President asked what he, General Walters, thought.

Did the President ever ask you what General Walters thought?

Mr. GRAY. No, sir. My recollection of that call is not that at all. I have testified as to my recollection of that call, sir.

Mr. NEDZI. At the time of this conversation, and at the time of your conversations with General Walters, what kind of atmosphere prevailed, Mr. Gray? Was it a friendly atmosphere?

Mr. GRAY. Oh, yes.

Mr. NEDZI. Did you feel he was frank with you?

Mr. GRAY. Yes; there is no question about that. It was friendly and was calm except for the July 6 one when I could see he was under apprehension, and there was unease and irritation and resentment apropos his remark in leaning back in the chair and making the remark he made with regard to his inheritance and pension and not letting those kids kick him around any more.

Mr. NEDZI. Did he during that conversation advise you of Haldeman and Ehrlichman’s order to him to tell you that the CIA had no assets, or that the CIA did have assets which were going to be endangered by an FBI investigation?

Mr. GRAY. No, sir. I think if he had advised me of that, as I said earlier in my writing there, we would have sat down right then and there and called the President. That is all there would have been to it.

Mr. NEDZI. So he never told you about White House imposition in this regard?

Mr. GRAY. I have absolutely no recollection, and I have really dredged my memory to try to come up and be as absolutely fair as I can be on this. But I have absolutely no recollection of it. I do know I had that telephone call from John Dean, there is no question about that, who said that General Walters is going to come over and see you—urged me to see him.

Mr. NEDZI. During this semifinal conversation when he told you that he could not give you a letter, what is your conclusion?

Mr. GRAY. My conclusion was that I had not asked for a letter. I had asked for a writing as to whether or not they had any interest in Ogarrio and Dahlberg. That is what I was after.

Mr. NEDZI. Except they had already indicated to you they didn't; didn't they?

Mr. GRAY. Mr. Helms had on June 27, and we, as I told you, had started to interview, LEGAT Mexico had received orders to go ahead and interview Ogarrio. They were cancelled on the 29th. I testified here I cannot recall exactly how that cancellation came about. I said to you, Mr. Chairman, and to the committee, that I had a vague recollection of a call from Mr. Dean, and a call from me to Mr. Felt before I caught that airplane at United, that United Airlines airplane to fly out to San Diego. But it is nothing more than a vague recollection. I can't be that crystal clear and positive about it.

Mr. NEDZI. To get back to your last meeting, the next to the last meeting with General Walters, even when he told you that he couldn't furnish the letter, no reference was made to the White House ordering his intercession with you?

Mr. GRAY. As I testified earlier, he said to me that he will not do it, he will resign before he will furnish such a letter. If he were directed to furnish such a letter he would resign. But I wasn't asking him for such a letter. All I wanted from him was an expression of CIA interest or no interest.

I was thinking in terms of Ogarrio and Dahlberg. I recall—the thing that I remember most vividly about that meeting was his repeating several times to me that if directed to furnish such a letter, he could not furnish such a letter. He would have to resign or he would have to ask to see the President.

Mr. NEDZI. When did you first become aware of his contention that he came to you under orders from the White House?

Mr. GRAY. I think it was that newspaper article. I sat down and began writing these.

Mr. NEDZI. In May?

Mr. GRAY. Yes. That is right. That is my recollection.

I have no earlier recollection.

Mr. BOB WILSON. That is what he said earlier. He was so shocked when he read the article he had not known that the White House was involved with it.

Mr. NEDZI. At the time that they talked about danger to CIA sources, you made no inquiries as to what these possible dangers were?

Mr. GRAY. No, sir, I didn't. All of the training that I have ever had in the service has been based on a need-to-know basis, and dealing with the Central Intelligence Agency, I did not inquire, and I did not

inquire when Mr. Helms asked me not to interview Mr. Wagner and [deleted].

Mr. NEDZI. You didn't think that the Director of the FBI conducting a sensitive investigation has a need to know?

Mr. GRAY. I have a need to know, but when I am talking with a man like that, Mr. Chairman, I am certainly not going to assume he isn't telling me something that isn't correct and accurate.

Mr. NEDZI. How would you know the limits of your investigation if you didn't know where to limit your investigation?

Mr. GRAY. We did not limit our investigation, Mr. Chairman, the conduct of this investigation there were no limitations placed upon any of these.

Mr. NEDZI. Then you didn't pay any attention to what Walters told you?

Mr. GRAY. Oh, yes, we did, but because we held off in interviewing Ogarrio and Dahlberg until July 6 when I had the meeting with General Walters and I gave the orders to conduct the interviews.

Mr. NEDZI. Couldn't there have been other investigations that you have conducted which might have impinged on CIA sources?

Mr. GRAY. No.

Mr. NEDZI. If you had no knowledge of what they were?

Mr. GRAY. No, because the only report that I had at all with regard to any impingement with regard to CIA was in connection with the so-called CIA money chain, or the political money chain flowing from the four checks deposited in Barker's bank account. We had no other indications.

Mr. NEDZI. Who did you get those indications from?

Mr. GRAY. From General Walters and from Mr. Dean.

Mr. NEDZI. General Walters made reference to Mexican money?

Mr. GRAY. No, he made reference to Mexican sources that if we would uncover, if we persisted in our Mexican investigation we would uncover assets or resources of the CIA south of the border. He only talked in terms of south of the border.

Mr. NEDZI. You weren't concerned about CIA activities anywhere else, whether in Washington, D.C., or London, England, or Paris or any place?

Mr. GRAY. No, I had no indication there were other LEGAT's involved in these. There were overseas leads, legal attaches, and other foreign posts involved, but we had no indications of any kind, no teletypes or any reports of any kind came across my desk.

Mr. NEDZI. Refresh my memory. Why didn't you interview Miss Chenow?

Mr. GRAY. Mr. Dean, as I recall after going over this very, very carefully, just exhaustively and analyzing all the paper that is involved here, Mr. Dean had called me and requested that we not interview her for reasons of national security. I had told him, all right, we will hold off, but she's got to be brought back to this country for interview. I think 2 days after that we had the word that she was going to be made available the next week, and she would be brought back.

Mr. NEDZI. So you never had any evidence of the national security issues being involved?

Mr. GRAY. No, sir.

Mr. NEDZI. Did you have any reason to suspect CIA involvement in the Mexican situation?

Mr. GRAY. I think from the very outset, Mr. Chairman, one of the theories that we consistently discussed within the Federal Bureau of Investigation was the possibility of CIA involvement because of the people themselves who were involved. And this was a continuing theory.

Mr. NEDZI. General Walters was told you never betrayed any indication he was being pressured to do what he was doing?

Mr. GRAY. No, sir, it did not.

Mr. NEDZI. Did you feel any pressure yourself from any source with respect to this investigation?

Mr. GRAY. No, sir, I didn't feel pressure, but I felt an overzealous counsel to the President was on the telephone an awful lot of times with me with regard to all kinds of informational items and that sort of thing.

I felt it was in the nature of harassment. I didn't feel I was being squeezed in a vise, because there wasn't that kind of pressure.

Mr. BOB WILSON. May I ask a question?

Mr. NEDZI. Certainly.

Mr. BOB WILSON. You spoke about the overzealous effort on the telephone. I noticed when you were recounting your telephone conversations you had the specific time. Is it your practice when you have a telephone conversation to keep a record of it?

Mr. GRAY. It is my daily log. I don't keep a record of the substance of the telephone conversations, just the operational type telephone calls I do, or when I am traveling on the road, I will make notes on anything I have available when somebody calls me. But generally, I relied in the FBI totally and completely on these memorandums where I would be issuing orders or instructions.

Mr. BOB WILSON. Do you have a record of how many times Mr. Dean called you, for example?

Mr. GRAY. During the period of the investigation?

Mr. BOB WILSON. During the period we are talking about, the time frame of June 23—

Mr. GRAY. Yes, sir; 25.

Mr. BOB WILSON. Twenty-five telephone calls?

Mr. GRAY. Twenty-five telephone calls.

Mr. BOB WILSON. Do you have a record of how many times Mr. Ehrlichman called you?

Mr. GRAY. I think there were only two by Mr. Ehrlichman, but I would have to check.

Mr. BOB WILSON. Mr. Haldeman?

Mr. GRAY. Mr. Haldeman, none.

Mr. NEDZI. How did you first become aware of the Hunt-CIA-Ellsberg matter?

Mr. GRAY. The Hunt-CIA-Ellsberg matter, if you are referring to the burglary, Mr. Chairman—

Mr. NEDZI. Yes.

Mr. GRAY [continuing]. I learned about that from the newspaper.

Mr. NEDZI. No information was given to you by the CIA with respect to equipment being furnished to Hunt?

Mr. GRAY. General Walters contends that he delivered to me, I think it is on the 12th of July, a writing, a memorandum, in which there were set forth aliases of Hunt and Liddy, and then some paraphernalia, CIA equipment of some kind, in another paragraph. I don't recollect ever seeing that memorandum in my office. I obviously saw it, though, because when it was shown to me in the office of the assistant U.S. attorney, right across the bottom of it is my handwriting, "Received 2:15 p.m., July 12, 1972 from L. Gen. Walters."

And I can't recall to this day whether, as I did with the July 6 memorandum, route that to Mr. Felt and Mr. Bates, or whether I merely gave it to my secretary to put in my safe. It was found in my safe after I departed the FBI.

But I certainly did not relate that to any kind of a burglary at all. There was nothing in that memorandum that would have alerted me to a burglary.

Mr. NEDZI. Do you have any indication that the President knew what Mr. Dean was doing during the course of this investigation?

Mr. GRAY. Mr. Chairman, I have no indication; I have no information; I have no evidence. Because I just have no information about what transpired in the White House. I do not know.

Mr. NEDZI. In your conversation with the President, did he indicate that he was aware of what was transpiring in the investigation?

Mr. GRAY. No, sir, because my recollection is we did not discuss the investigation. My recollection of that call is exactly as I have given it to you, because my recollection is that I just blurted that out to the President.

Mr. NEDZI. The President didn't initiate that particular subject matter?

Mr. GRAY. No, sir.

Mr. NEDZI. Mr. Chairman, do you have any questions?

Mr. HÉBERT. Yes, I have a final question. No. 1, in connection with the routine business, Mr. Gray, of the minute reports on your telephone calls, to your knowledge were any of those calls ever monitored?

Mr. GRAY. In my office?

Mr. HÉBERT. You answer that first and I will ask the overall question. No call was monitored in your office?

Mr. GRAY. No, sir.

Mr. HÉBERT. You have no knowledge of calls being monitored in other offices?

Mr. GRAY. Yes, sir, I do.

Mr. HÉBERT. Which ones were monitored?

Mr. GRAY. I was told by the assistant U.S. attorneys that some of the calls during my confirmation hearings to Mr. Ehrlichman were monitored by Mr. Ehrlichman.

Mr. HÉBERT. Monitored by Mr. Ehrlichman?

Mr. GRAY. Yes, sir.

Mr. HÉBERT. But you don't know of any calls, to your knowledge, that were monitored in connection with this particular case?

Mr. GRAY. No, sir, I do not. The only knowledge I have regarding any monitoring is that which was told me by the assistant U.S. attorney.

Mr. HÉBERT. So, then, if the substance of that be true, then these other calls of the White House could have been monitored, too, without your knowledge?

Mr. GRAY. That is possible; yes, sir.

Mr. HÉBERT. Dean's 25 calls—being a very talkative young man—they could have been monitored?

Mr. GRAY. That is possible, Mr. Chairman.

Mr. HÉBERT. I am not asking you to draw conclusions, I am merely seeking the facts and let them speak for themselves.

The second question I want to ask you: Up to this time, we have had no witnesses in here that had a direct conversation with the President of the United States except you.

Mr. GRAY. That is correct, sir.

Mr. HÉBERT. Everything else has been hearsay—somebody told them. There is a lot of confusion, as reflected in the Walters' memorandum, paraphrasing and reading into what an individual says. Perhaps, in that paraphrasing, they think you are going to say what they would have liked for you to have said. This is the confusion we have had. You are the only man who appeared before this committee up to this time who had a direct contact with the President of the United States. As I understand your testimony, when you say you blurted out what you did, there was a pause and he said to you, "Continue your aggressive investigation"?

Mr. GRAY. That is correct, sir.

Mr. NEDZI. Did he use the word "aggressive"?

Mr. GRAY. Yes, sir.

Mr. HÉBERT. That is what I wanted to get at. He used that word.

Mr. GRAY. Yes, sir.

Mr. HÉBERT. Let's go back to when the FBI first became involved. In your opening statement when I asked you the question, it was a question of days, just a few days when the orders came out of the White House for the FBI to investigate the Watergate?

Mr. GRAY. No, Mr. Chairman. I think the very first day we were in it up to our ears because of the jurisdiction obviously being there. First, the Watergate appeared to be a burglary. Then when we got into the equipment that was in their possession, it obviously became an intercept of communications case. So we were in it right from Saturday on.

Mr. HÉBERT. That is why I asked you about the dates in the beginning. You recall your earlier testimony. I think it was 4 or 5 days which elapsed between the breaking of the story, when it first surfaced, and then you were all called in to conduct this investigation. "I would say it would be a real thorough investigation." And since that did not come from the President, did it come again secondhand?

Mr. GRAY. I am sorry, sir, I gave the instructions from California. I said,

Check the jurisdiction, and if we have the jurisdiction go full tilt and report to the Attorney General that we are going to conduct an aggressive and thorough investigation with no holds barred.

I did that in California, Mr. Chairman.

Mr. HÉBERT. You did that on your own initiative?

Mr. GRAY. Yes, sir, as soon as we ascertained we had jurisdiction. Then the assistant U.S. attorneys, the U.S. attorneys, and assistant attorney general in charge of the Criminal Division decided about noon that day, Saturday, we had jurisdiction.

Mr. HÉBERT. In other words, then you had no direction at all from the White House, and the only direction you did have to conduct the

investigation, or, rather, the conversion of the investigation, occurred in your conversations with Dean and the two from Ehrlichman?

Mr. GRAY. Yes, sir, that is correct.

Mr. HÉBERT. They conveyed the only direct information you had which came from the President of the United States and this is a repeat of your call to him, which is not hearsay?

Mr. GRAY. No, sir.

Mr. HÉBERT. What the President told you and what you told the President.

Mr. GRAY. That is right.

Mr. HÉBERT. After the pause, you blurted out.

Mr. GRAY. Yes, sir.

Mr. HÉBERT. He paused, and said "Continue the aggressive investigation"?

Mr. GRAY. He said, "Pat, you continue to conduct your thorough and aggressive"—

Mr. HÉBERT. "Pat, you continue to conduct your thorough and aggressive investigation?"

Mr. GRAY. Yes, sir.

Mr. HÉBERT. Is there anything that you can think of at the moment, or thought of in preparing to come before this committee—the conversation of anyone whose name has not even been brought up, that perhaps you know, that would have any bearing on this case at all? We are trying to get down to the facts.

Mr. GRAY. Limited to the CIA aspects of it?

Mr. HÉBERT. No; limited to the FBI investigation of the Watergate.

Mr. GRAY. I am talking now with the assistant U.S. attorneys and have been talking with them for quite a few days, Mr. Chairman, on that. I am giving all kinds of information to them about this—

Mr. HÉBERT. Which is ordinary, routine work?

Mr. GRAY. That is right.

Mr. HÉBERT. Is there anything unusual in this situation you have knowledge of?

Mr. GRAY. No, sir, I think not. I will have to ask, if I may, to think about it.

Mr. HÉBERT. I am really asking a blanket question.

Mr. GRAY. Right.

Mr. HÉBERT. So you can come back that you don't know.

Mr. GRAY. Right.

Mr. HÉBERT. This is an area in which we have the greatest confusion, where the witness doesn't answer the question unless we ask him a direct question.

So I am putting a blanket over there, putting the burden on you.

Mr. GRAY. Yes.

I will have to—

Mr. HÉBERT. If you think of anything.

Mr. GRAY. I will have to do that.

Mr. HÉBERT. You come back to this committee and tell us.

Mr. GRAY. I will have to do that, Mr. Chairman.

Mr. SACHS. Excuse me, Mr. Chairman, if I may inquire, for clarification of your question. There most assuredly are other areas that are certainly regarded as important by the prosecution in whatever case it is investigating. It certainly relates to Watergate. And Mr. Gray

has certain information that I am sure is highly relevant. It has no relationship, at least as I see it, to the CIA dimensions of the case, at least as I define it, and I think I defined it broadly. We don't want to be in error in interpreting the chairman's remark.

Mr. HÉBERT. I think counsel understands the question. I don't mean it that way. We have no jurisdiction over the FBI. Ours is only related to the CIA, is that a correct statement?

Mr. NEDZI. Yes; that is my understanding.

Mr. HÉBERT. We have no overview of you here at all. You are only here because the CIA is involved.

Mr. SACHS. Yes.

Mr. NEDZI. Mr. Gray, I want to clearly understand your feeling and understanding following the conversation with General Walters when he told you that the CIA could not furnish a writing with respect to FBI's investigations.

Did you detect anything improper in the conduct of the individuals prior to this time?

Mr. GRAY. No, sir.

Mr. NEDZI. Neither on Dean's part nor on Walters' part?

Mr. GRAY. No, sir.

Mr. NEDZI. At that time did you feel that there was something improper in the way this matter was handled?

Mr. GRAY. No, sir, I did not. I felt that General Walters, when he made that statement about not letting these kids kick him around any more, certainly that was a clear indication of irritation and resentment to me. Certainly when he continued to dwell on the fact if directed to write such a letter he wouldn't and couldn't, and would ask to see the President, and would resign, no, I detected nothing improper at all. Because, you know, I hadn't asked for a writing saying I have to have a writing so I can continue to hold off on Ogarrio and Dahlberg. What I wanted to know, we had gone 2 weeks, and we had reached the point where we were going to interview Ogarrio and Dahlberg unless we got a writing saying that the interviews would be harmful to uncovering CIA assets or resources.

Mr. NEDZI. You indicated Dean had been making a number of telephone calls in this regard. You felt that was a semblance of harassment, at least.

Mr. GRAY. Yes, but I had no reason to question it. You know, this man is over there sitting over there as counsel to the President, and I didn't find anything out of the ordinary or unusual or suspicious about it. I certainly didn't have the same attitude today, you know. When you look back on this, Mr. Chairman, and analyze it as we have done, there are mileposts here that you can see. But in those early days when this investigation was going together, and throughout the conduct of it, I did not have any suspicions at all.

Mr. NEDZI. Was there a reference to the idea that the President was ill-served by some of his subordinates in your conversation with General Walters?

Mr. GRAY. I think very definitely General Walters did discuss that with me, and talking in the general terms of protecting the President, that it was——

Mr. NEDZI. From what?

Mr. GRAY. From what, sir?

Mr. NEDZI. Yes.

Mr. GRAY. From this direction to write a letter to me. This is what he was most concerned about, and I had not asked him to write a letter to me. He kept saying, if I am directed to write a letter to you, I'm just not going to do it, I'm going to ask to go to see the President and I'm going to have to resign.

Mr. NEDZI. That is the only thing untoward in the whole incident?

Mr. GRAY. This and the vivid recollection I have of him sitting back in that red chair and saying "These kids are not going to kick me around any more."

This whole thing, you know, Mr. Chairman, is happening back in the first 2 weeks, and it is corrected. We interview Ogarrio and Dahlberg. We get on with it. We trace it. We uncover it for what it is. And I talked with the President, you know, and these suspicions just did not come to my mind.

Mr. HÉBERT. Let's pull the curtain back. I can understand your feeling at that time in 1972.

Now, we are in 1973. A lot of things have been revealed that you didn't know and we didn't know and many people didn't know, but a few people did know. Wouldn't you now consider re-creating what occurred in the 25 telephone calls from Dean as harassment, which you did feel. Now would you come to the conclusion that they were improper? He was trying to do something, as of the writing now, as of what we have now, which was highly improper?

Mr. GRAY. Yes, sir, if you believe all of these allegations, Mr. Chairman, there is no other conclusion that you can reach. But you know, in 26 years of service for this Nation, never in my wildest dreams could I conceive that three men this high in the Government of the United States could be involved in anything this shabby. And those kinds of suspicions just don't enter your mind. I was shocked. And I am still shocked. I find it difficult to believe.

Mr. HÉBERT. Of course with all of this testimony, Mr. Gray, if we weren't sitting up here and hearing the testimony coming from down there, I wouldn't believe it, either. People—as you say, people as high in office—that does not shock me a bit. I come from a State where we are immune from shocks. I take this as an attitude.

Mr. GRAY. As a naval officer and with all of my training and background and environment and enlisted man in the Naval Reserve and then in the citizens military training camps during the depression, mine has been a profession of service and respect for authority and belief in authority, and the people in positions like that.

Mr. HÉBERT. We have people who sat in the very chair where Dean or Haldeman sat—they went to jail in recent years. We have had Cabinet officers go to jail. So it is really nothing new in our system of Government, is it? I think the greatest tribute of this whole thing is the establishment, because in the establishment this was surfaced.

Mr. GRAY. It is a shocking thing.

Mr. HÉBERT. It is shocking all right.

Mr. GRAY. All I can say, Mr. Chairman, is that there was no reason for me, you know, to raise this issue. I testified, actually wasn't even under oath. I was just before the Ervin Select Subcommittee counsel and his staff, and I raised this matter with them.

Mr. HÉBERT. I understand it perfectly. I understand the reaction, in retrospect, because with your vast experience of almost 30 years in the service, and your dedication to authority, I can understand it, too. But that is why I asked you. I just wanted to get an expression of your feelings today.

Mr. GRAY. Sir, I think in retrospect, in looking back, based on the information that you have here, it is 20-20 hindsight, and it is a much clearer picture, there is no question about that.

Mr. NEDZI. Mr. Gray, why was General Walters the intermediary between the CIA and the FBI?

Mr. GRAY. I have no knowledge of that at all. I don't know how that came to pass, sir.

Mr. NEDZI. Do you have any suspicion?

Mr. GRAY. No, sir, I didn't. The Deputy Director, and the Director, I have no suspicion, the only thing I can tell you is we discussed on July 3 the compartmentalization in the CIA and whether it exists or not I do not know as a fact. But we discussed it as to whether the Director handles some things and the Deputy Director handles other things. I don't know that is a fact, sir.

Mr. NEDZI. Why did you call Mr. Helms on, was it January 28, or whenever, with regard to Ogarrio and Dahlberg rather than Walters?

Mr. GRAY. Because I felt even at that point in time, you know, that we ought to try to get this squared away, either there was or was not a CIA interest in this matter.

Mr. NEDZI. Why Helms and not Walters?

Mr. GRAY. He is the Director of the Agency. And I wanted to ask him about Ogarrio direct to see if he had any information on him at all.

Mr. NEDZI. Why didn't you call him for a writing, then, with respect to this matter?

Mr. GRAY. Because I called General Walters, as he was the man who had come to visit me on the 23d day of June, sir.

Mr. NEDZI. Why didn't you call General Walters—this was after the 23d of June.

Mr. GRAY. I know that.

Mr. NEDZI. Why on one occasion you called Helms and not Walters?

Mr. GRAY. I can't really account for that difference, except as far as the writings were concerned they were related to Walters' visit with me on the 23d day of June.

Mr. NEDZI. So was the information about Ogarrio, wasn't it?

Mr. GRAY. No, I don't know that we talked specifically in terms of names on that 23d date.

Mr. NEDZI. You talked about Mexico and money, didn't you?

Mr. GRAY. That is right.

Mr. NEDZI. This related to that.

Mr. GRAY. South of the border assets—that is correct, sir.

Mr. NEDZI. You have no explanation?

Mr. GRAY. No, sir, I have no explanation for that. I would deal with those people, either one of them, interchangeably.

Mr. NEDZI. When you talked with Dean on the 28th of June, following Walters' visit to you, you mentioned that you reported Walters' visit. Did you say you actually did, or that was one of those vague recollections?

Mr. GRAY. No.

Mr. NEDZI. The 2:53 telephone call?

Mr. GRAY. That was on the 23d of June, the 2:53 telephone call.

No, I called John Dean on that day. And I did discuss with him the Walters visit. And I did say to him that we would hold up temporarily and would work around this easily.

Mr. NEDZI. What did Dean say to you at that time?

Mr. GRAY. I don't recall what he said to me, Mr. Chairman. I don't have that good recollection of that call. I do know he called, that I called him.

Mr. NEDZI. Did you attach any significance to the June 28th call from Ehrlichman?

Mr. GRAY. The only significance that I could possibly have attached to that, looking back, they were in possession of some information I was not in possession of, and there was no need for me to be having that meeting with Mr. Helms regarding this matter.

Mr. NEDZI. Didn't it strike you as unusual? Heretofore you had been dealing with Dean and all of a sudden Ehrlichman calls.

Mr. GRAY. It did, but you know, this is the Assistant to the President that is calling me. I just didn't do anything more than, you know, say to him "Why?" I did ask, what is the reason? And then I did ask, who is going to make the decisions as to who is going to be interviewed in this connection?

Mr. NEDZI. He answered "You are"?

Mr. GRAY. He just said "You do." Those are the words I remember.

Mr. NEDZI. And then Dean called and asked you to hold up an interview on Kathleen Chenow?

Mr. GRAY. That is correct, sir. That is my best recollection. We do have a writing on that, and it is a thing that I checked and that writing we will submit to the committee.

[The following information was received for the record:]

[Memorandum]

JUNE 28, 1972.

To: Mr. Bates.

From: W. M. Felt.

Subject: Burglary of Democratic National Headquarters.

Pursuant to the Director's instruction, I placed a call to Mr. John Mitchell at the Committee to Re-Elect the President and found that he will be unavailable due to personal problems until late afternoon 6-29-72. I left a message for him to call me. If I have not heard from Mitchell by that time, I will call the second in command concerning the interviews which we desire to conduct at Committee headquarters.

This will also confirm telephonic instructions to you to temporarily discontinue leads to interview and investigate Kathleen Chenow, c/o Mr. and Mrs. Stephan Payne, 77 Alcester Road South, Kings Heath, Birmingham, England, because of National security considerations.

Once again, that is a memorandum written within the Federal Bureau of Investigation, not by me, but by the man to whom—

Mr. NEDZI. Wasn't there an inconsistency of that call at 4:35, and the call you received at 11:17, or the call you returned at 11:17 saying you were going to make the decision as to who was going to be interviewed?

Mr. GRAY. I don't know you would say there is an inconsistency and the man puts it on the basis of national security and speaking as the counsel to the President. I didn't quibble with him, Mr. Chairman.

Mr. NEDZI. What Ehrlichman said to you is accept.

Mr. GRAY. I guess you can read it that way, yes. Suffice it to say, I didn't quibble with the statement from Mr. Dean, except to say to him she should be brought back into this country and ought to be interviewed as soon as possible.

Mr. NEDZI. Then on the 29th you have the vague recollection of the call from Dean, prior to issuing an order to hold the Dahlberg and Ogarrio investigation in abeyance?

Mr. GRAY. Yes, sir, and I drew that, Mr. Chairman, from the Bureau memorandum that is written. It is, I tried very, very hard to recollect, and that could very well have been a call from him to me at my home that morning. It doesn't show on any of my daily logs.

Mr. NEDZI. There is no inconsistency between that kind of call and the call from Ehrlichman saying you are the boss in effect?

Mr. GRAY. No, sir, I don't view it as that, because he is telling me there are CIA interests here that are to be protected. It is either CIA or national security.

I just didn't raise any questions with him, Mr. Chairman.

Mr. HOGAN. I have a couple of questions, if I may, Mr. Chairman.

Mr. Gray, on the 23d you held a meeting with your FBI people. You indicated in testimony that you had many leads that were developed another time, I believe. Did any of those leads go into the CIA?

Mr. GRAY. I don't recall any of those leads went into the CIA, but any one of those teletype summaries of that day or any day would indicate the leads.

Mr. HOGAN. Did any of your leads get into the White House at this time?

Mr. GRAY. No, sir, none got into the White House, and none ever did throughout.

Mr. HOGAN. None got in throughout your regime there, Mr. Gray—leads?

Mr. GRAY. Oh, I see, you are talking about leads to people to interview. Yes.

Mr. HOGAN. Suspensions you may have?

Mr. GRAY. No, I wouldn't characterize it as suspicions. Because the leads are developed at the case agent level with his field supervisor and in conjunction with his special agent in charge. They would go out in teletypes. I would sometimes see those 2, 3, 4, 5, 6 days later, sometimes I wouldn't see them at all.

Those leads are written at the case agent level.

To respond properly to your question, I can say that we did interview people at the White House.

Mr. HOGAN. Right. You are developing evidence at this point?

Mr. GRAY. That is correct.

Mr. HOGAN. But in this development, did any of these White House leads lead into any culpability of any sort on the part of the White House?

Mr. GRAY. No, sir, we found none.

Mr. HOGAN. How well did you know Mr. Ehrlichman?

Mr. GRAY. Not very well at all. I knew that he was an advance man in the 1960 campaign.

I am trying to think if I ever saw him between 1960 and when I came to Washington in 1969. I don't believe that I did. I had occasion, surely, although I don't remember the occasions, to talk with him when

I was serving as Executive Assistant to Secretary Finch of HEW. I must have talked with him there. But I did not know him well at all. I have never been in his home. I have not socialized with him at all. Whatever relationship we had was an official relationship.

Mr. HOGAN. What was your impression of the amount of authority he had in the White House?

Mr. GRAY. I think the impression of everyone in the Nixon administration was that Mr. Ehrlichman had considerable authority across the board. There is no question about that. I think that was known even by Cabinet officers.

Mr. HOGAN. As a result of your conversation with the President, did you develop a feeling about what he knew about Watergate?

Mr. GRAY. No, sir, I did not at all.

Mr. HOGAN. From the tone of his conversation?

Mr. GRAY. No; I didn't.

Mr. HOGAN. You didn't?

Mr. GRAY. No.

Mr. HOGAN. You recall the version of the President in his May 22 statement. Does that differ in any substantial measure either by inclusion, or exclusion?

Mr. GRAY. Oh, I think so. I think I testified before the Senate Appropriations Subcommittee, and I believe it was Senator Hruska who read that, and there are differences there between that version and what I remember.

Mr. HOGAN. What are those differences?

Mr. GRAY. I would have to see the statement. My testimony, Mr. Hogan, is as I have given it. This is the way I remember that conversation.

Mr. HOGAN. I see.

Mr. GRAY. I had remembered it. It would just have to be matched against it.

Mr. HOGAN. Now, going to General Walters' memo which records the 12 July visit, I believe—or if it isn't there it is in one of the others—there was a statement concerning a conversation of attempts to suppress financial records of the Committee to Reelect the President.

Mr. GRAY. That is one that I have absolutely no recollection of whatsoever, and I don't ever recall anyone ever asking me to stop any subpoenas of any kind in connection with this, because this isn't a thing that I dealt with in my level. Those subpoenas were all issued down at the case agent level and with the Assistant U.S. Attorney.

The only possible explanation I have for that is that there may have been news stories at that time, as there were, that this was attempted. But I have no recollection of that at all.

Mr. HOGAN. Now you testified as to General Walters' discussion of an offer to resign, but he indicates you did the same.

Mr. GRAY. I had discussed with my people, I believe it was in the July 3 meeting—that will be subject to correction when you see a copy of the narrative summary we give you from Mr. Bates—but I believe it was then when we were deciding that we had to clarify this matter of CIA interests or no CIA interests and I said that we are going to push this investigation to the hilt, and I am not going to take any pressure from anybody, including the President of the United States, and I made that statement to my people. I did.

Mr. HOGAN. In passing, you made a statement if necessary you would resign?

Mr. GRAY. That is correct.

Mr. HOGAN. Where along the line did you first discover that something was wrong in this Watergate situation as far as the White House was concerned?

Mr. GRAY. I never did discover it, even during the confirmation hearings, when we were preparing for them I was sitting up there in my conference room with my people around me. We were discussing this as to whether or not we had any suspicions whatsoever. We had none. And they reported to me none. And I responded to them that we had none at all.

Because we checked this. We went into it very, very carefully. We just absolutely had none.

If there were any that were held, certainly they didn't get up to us, and we had in those meetings agents who actually worked on the case present, in those meetings up in my conference room, reviewing this investigation, going over it. We analyzed it pretty thoroughly.

Mr. HOGAN. What was the rapport that existed between the FBI and CIA during your tenure in office, Mr. Gray.

Mr. GRAY. I thought it was pretty good. I went over and paid the first call on Mr. Helms after I came into the office and asked him if there were any difficulties between the Agencies. He assured me there were none. I had no reason to believe, and I still don't, that there were any difficulties between the FBI and the CIA.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. NEDZI. Following that meeting, your last meeting referred to with General Walters toward the end of July, have you had any other meetings with the CIA—any people?

Mr. GRAY. No, sir; not that I recall. I don't recall any. I would like to check my log. I think there was a meeting, that Mr. Helms came by to see me in October, and I may have a memorandum on that little meeting with him. I would submit a copy of that for the record.

[The following information was received for the record:]

Memorandum of conference on October 18, 1972, with Director Helms. It is not clearly legible but reads as follows:

"CW R. Helms

10/19/72 10:00A to 11:21A

"1. One of my lawyers met with AUSA Silbert last wk. & asked a few questions.

"2. I will go to AG 1st but tho't I should call on you first.

"3. Documented answers to Q's of AUSA."

I have no recollection of the substance of this meeting with Director Helms other than the recorded information. I recall the meeting as a courtesy visit to me by Director Helms prior to a discussion he was to have with the Attorney General concerning contact between the Office of the United States Attorney and the CIA.

Mr. NEDZI. Did the FBI request anything from the CIA during this period with respect to the Ellsberg profile and the Hunt equipment that was provided by the CIA?

Mr. GRAY. Mr. Chairman, if anything was requested by the FBI, it was done without my knowledge. I have no knowledge of requesting anything from the CIA with regard to Dr. Ellsberg, because I absolutely knew nothing about that case.

I learned about that case really in the newspaper. And I would have to testify to that just that way forever.

Mr. NEDZI. This is subsequent to your resignation?

Mr. GRAY. I believe it was; yes, sir.

I am talking about the burglary of his psychiatrist's office. I hope that is what you are talking about, Mr. Chairman.

Mr. NEDZI. Yes.

Mr. GRAY. I knew about the Pentagon papers when I was Assistant Attorney General, Civil Division.

Mr. NEDZI. Did you request, did your office request, or did the Justice Department request cooperation from the CIA in the investigation of this matter?

Mr. GRAY. The investigation of Watergate?

Mr. NEDZI. Yes.

Mr. GRAY. I don't know if we requested cooperation from the CIA other than what I have discussed here of my contacts.

Mr. NEDZI. Were you aware of any call that Mr. Dean purportedly made to Mr. Schlesinger asking him to request that the FBI return whatever materials the CIA had given to them previously?

Mr. GRAY. Absolutely not, until I saw these memorandums here I was not aware of that.

Mr. NEDZI. That was never disclosed to you?

Mr. GRAY. No, sir.

Mr. NEDZI. When did you resign, Mr. Gray?

Mr. GRAY. I resigned, it was either the 26th or the 27th of April. I know General Walters testified that he met with me on February 21, 1973, and I have a note on that, and I think what is on that note, though, is extremely sensitive information. I know what we talked about at that meeting on February 21, 1973. I am perfectly willing to make that note available to this committee. There is extremely sensitive information on that note.

Mr. NEDZI. We would like to have that note, Mr. Gray.

Didn't General Walters at that time convey to you the call, the substance of the call which Mr. Schlesinger had gotten from Mr. Dean?

Mr. GRAY. No, sir. I have a conference note; that is, a conference note on Helms, and here is a conference note on Mr. Walters, and I don't know whether you want me to read this off into the record.

Mr. NEDZI. Are you going to furnish those for the record?

Mr. GRAY. Yes; I will give them to you right now, sir. I may have to interpret them for you, but I think when you read it you can see what is involved, though.

Mr. NEDZI. Would you just tell us the substance of that?

Mr. GRAY. I could tell you off the record.

Mr. NEDZI. Off the record.

[Discussion off the record.]

Mr. NEDZI. On the record.

Mr. HOGAN. May I ask one question, Mr. Chairman?

Mr. NEDZI. Go ahead.

Mr. HOGAN. Mr. Gray, maybe I didn't understand you correctly, but on the 6th of July didn't General Walters deliver to you a memo containing information on the Hunt-Ellsberg matter?

Mr. GRAY. Not on the—

Mr. HOGAN. Talking about the gear they turned over to him.

Mr. GRAY. Not on the 6th of July, Mr. Hogan. I think that was the 12th of July delivery, and that is the memorandum I previously testified to that I viewed. I believe it is the same one.

Mr. HOGAN. Two and one-half page memo?

Mr. GRAY. No, the 2½ page memo had nothing in it on that stuff.

Mr. HOGAN. On that?

Mr. GRAY. No. That was on everything—every bit of information they supplied us on the principals, the five burglars.

Mr. HOGAN. Did you note in his statement he made reference to a memo regarding the Hunt matter?

Mr. GRAY. I think in his memorandum of July 13—

Mr. HOGAN. Yes, in his memorandum.

And then, as I recall, at the July 12th meeting, didn't he follow that up with some additional material, or he stated that he did?

Mr. GRAY. I think all he gave me, we looked at the two memorandums, we compared them. I don't have them. I don't have copies of them, either one of them.

Mr. HOGAN. All right.

Mr. GRAY. One is a 1¼ to 2½-page memorandum and the other is a single-page memorandum, as I recall it.

Mr. SACHS. If I may, for clarification sake. Mr. Hogan, I have seen them in the same sense Mr. Gray has seen them. The one on July 12 does talk about furnishing paraphernalia to Mr. Hunt. There is nothing about Ellsberg in there.

Mr. HOGAN. No.

Mr. GRAY. This doesn't tell why.

Mr. HOGAN. It was that job. I understand.

Thank you, Mr. Chairman.

Mr. NEDZI. So you made no request, specific request, following your last meeting of the CIA with respect to the Watergate matter?

Mr. GRAY. No, sir, I can think of none, absolutely not. Because to me, as of July 6, as far as I was concerned the CIA was out of this picture. We didn't have any problem at all with CIA involvement after that. We pursued the leads, and that was the end of it.

Mr. NEDZI. When certain matters were turned over to you, was it the Justice Department or the FBI in October of 1972?

Mr. HOGAN. The Justice Department package.

Mr. NEDZI. That went to the Justice Department?

Mr. HOGAN. Yes, sir.

Mr. NEDZI. You have no knowledge of it?

Mr. GRAY. I have no knowledge of it, I don't know what is in it, I have not seen it.

Mr. NEDZI. No one in Justice turned it over to you for investigation?

Mr. GRAY. No, sir, I have not seen it at all. I am just so positive of that that I can sit here and say I am positive I have not seen that.

Mr. HOGAN. It contains some questions and answers as a, for instance, with some accompanying memorandums?

Mr. GRAY. The only thing that that could be related to is the meeting with Dick Helms—let me have that memorandum—I will give you that memorandum for the record—October 18 he came by and talked with me about some questions that his counsel—I will give you this—one of my lawyers met with USA Silbert last week and asked a few questions. This is a meeting with Dick Helms on October 18, 1972,

from 11 to 11:21 a.m. "I will go to AG first, but I thought I should call on you first," the idea to be to let me know one of the lawyers had met with Silbert and had asked a few questions—then he says here, we have documented the answers to the questions to the assistant U.S. attorney. I didn't ask him what the questions were.

Mr. HOGAN. That is the same subject, Mr. Chairman.

Mr. GRAY. There is the memorandum. [See p. 255.]

Mr. NEDZI. When he asked you not to interview Mr. Wagner was there any conversation at all about why?

Mr. GRAY. No, sir, I don't even know who Mr. Wagner is except by reading about him in the newspapers he was supposed to be the aide to General Cushman. When Dick Helms called me and made that request I just said, "Fine," and I gave the orders, turned right around and pushed the button, and Mr. Felt wrote an FBI memorandum on it.

Mr. NEDZI. You just had no curiosity in this respect to determine whether this was a legitimate request?

Mr. GRAY. Not when the Central Intelligence Agency is asking me to do that. I didn't do it, Mr. Chairman. I wouldn't do it. I didn't think to do it.

Mr. NEDZI. You say you wouldn't do it. Do you think it would be improper?

Mr. GRAY. I wouldn't want to poke in his operations any more than I want him to poke into my operations.

Mr. NEDZI. He is poking into your operations by making this kind of request?

Mr. GRAY. That is right, he was. At that point in time when he called on me on that, I had absolutely no reason. I didn't even question him on October 18 when he came into my office and sat down and told me why not give him a little memorandum on it.

Mr. NEDZI. Do you have any further questions, Mr. Chairman?

Mr. HÉBERT. No.

Mr. NEDZI. Mr. Hogan?

Mr. HOGAN. No, sir, Mr. Chairman.

Mr. NEDZI. Thank you, Mr. Gray.

Mr. GRAY. Thank you.

Mr. NEDZI. The committee will stand recessed, subject to the call of the Chair.

[Whereupon, at 1:14 p.m., the subcommittee recessed, subject to the call of the Chair.]

[The following statement was supplied for the record:]

RESPONSE OF L. PATRICK GRAY, III, TO
MEMORANDA OF LT. GENERAL VERNON A. WALTERS, U.S.A.

I. WALTERS MEMORANDUM #1 ---- JUNE 28, 1972 RE THE
MEETING OF JUNE 23, 1972 IN EHRLICHMAN'S OFFICE

Paragraph 3

The statement attributed to Director Helms is substantially correct although I do not recall, and my contemporaneous handwritten note does not reflect, the same degree of detail. After being briefed by Mr. Charles W. Bates, Assistant Director, General Investigative Division, FBI, at 5:00 p.m. on Thursday, June 22, 1972, regarding the latest developments in the case, I telephoned Mr. Richard Helms, Director, CIA, and spoke to him at 5:23 p.m. (Exhibit 1.) I told him of our thinking that we may be poking into a CIA operation and asked if he could verify or deny this. He said he had been meeting on this very day with his men, that they knew the people involved, that they cannot figure out this one, and that there is no CIA involvement. (Exhibit 2.)

Paragraph 4

I did not talk with Mr. Haldeman about the Watergate investigation at any time except during my confirmation hearings in 1973, at the request of Senator Kennedy. After several attempts to reach him, I talked to Mr. Haldeman by telephone to ask whether Mr. Dean had shown Mr. Haldeman copies of the FBI reports of inter-

view which I had furnished Mr. Dean. Mr. Haldeman told me he had not seen the interview reports or any FBI reports and I so reported to Senator Kennedy. In my telephone calls and meetings with Mr. Dean from June 21 through June 23, 1972 (Exhibits 1, 3, 4), I am fairly certain that I talked with him about the various theories that we in the FBI were discussing concerning the Watergate incident which speculated that it was a CIA covert operation, or a Cuban right wing operation, or a political operation or any combination of these. In the course of these conversations and meetings, Mr. Dean raised the prospect that if we persisted in our efforts to investigate the Mexican money chain we could uncover or become involved in CIA operations. These may not have been his exact words but this was the thought. I remember telling Mr. Dean in one of these early telephone calls or meetings that the FBI would have to pursue all leads unless we were told by CIA that there was a CIA interest or involvement in this case. I may very well have told Mr. Dean of my telephone call with Helms on June 22, 1972 at 5:23 p.m. in which Helms stated to me there was no CIA involvement, but I cannot be sure.

Paragraph 6

My records show that the meeting between General Walters and me was arranged by his secretary calling my secretary at 1:56 p.m. on June 23, 1972 and not through a conversation between General Walters and me. (Exhibits 4 and 5.) I did not speak to General Walters about arranging the appointment.

II. WALTERS MEMORANDUM #2 ---- JUNE 28, 1972 RE
THE MEETING OF JUNE 23, 1972 IN GRAY'S OFFICE

Paragraph 2

I have no recollection whatever of General Walters informing me at this meeting that he was coming to me after talking to the "White House" or that he had talked to the "White House" at all.

As I have testified, there is no question that I knew from at least one of the telephone conversations with Mr. Dean on June 23, 1972 that General Walters would be coming to see me that afternoon. I do not recall General Walters telling me that he was aware of my conversation of the previous day with Director Helms but he may have done so.

My recollection of General Walters' comments at this meeting with respect to FBI impact on CIA operations is that, as General Walters indicates in Paragraph 3, if the FBI investigation into the Mexican money chain continued it could uncover CIA assets or resources which I took to mean covert CIA operations. I do remember that we discussed the FBI-CIA Agreement. Although I had not seen or read this Agreement it seemed perfectly logical to me that we were not going to interfere with or expose the operations of one another.

With respect to General Walters' statement, "His [Gray's] problem was how to low key this matter now that it was launched", I may have said words to this effect to let him know that we would handle the CIA aspects of this matter with kid'gloves. I can state

categorically, however, that any sentiment of that kind expressed by me was an effort by me to abide by the CIA-FBI Agreement and related solely to the possibility of exposing CIA covert activities in the pursuit of our investigation into Mexico. This sentiment, if expressed, could in no way have related to any effort by me or the FBI to "low key" the Watergate investigation generally.

In fact, the FBI did not low key the Watergate investigation generally and instructions were issued at the outset of the investigation and regularly thereafter to ensure that this case was handled as a major case under the immediate supervision of the Special Agent in Charge of each Field Office to which investigative leads were referred by the Washington Field Office or any other Field Office setting out leads to be pursued.

I may have mentioned the \$89,000.00 to General Walters. I do not remember, but, if I did, I would have talked in terms of 4 checks in this total amount (not "a check") simply because 4 checks were involved. I probably also spoke of the name Ogarrio simply because these two men, Mr. Ogarrio and Mr. Dahlberg, were always associated in my mind with the \$89,000.00 in 4 checks (Ogarrio) and with the \$25,000.00 in one cashier's check (Dahlberg) which were traced to the bank account of Bernard Barker.

Paragraph 3

It is certainly possible that in the course of my conversation with General Walters I may have expressed the thought that the Watergate case was a "hot potato" for a new acting director

and the FBI in an election year, and for the President too. I know that I expressed this thought to many people at various times.

"Watergate is just what I needed" was a refrain I know I struck with friends on numerous occasions. General Walters' references to "He [Gray] would see what he could do", and "he...[Gray] would have to study the matter and see how it could best be done", could only relate to my admitted desire to pursue this investigation without compromising CIA assets and resources. In no way, shape or form did I say or seek to imply to General Walters, or to anyone else for that matter, that the FBI investigation would be other than aggressive and thorough. The only conceivable, limited exception was the alleged national security considerations being presented to me by General Walters and Mr. Dean which, as the record will show, brought about a delay in the interview of several persons for a period of ten days to two weeks.

As a matter of fact, and as my testimony makes clear in more detail, the FBI continued to probe the Mexican money chain and the Dahlberg relationship during this period that the personal interview with Mr. Ogarrio was being held in abeyance and Mr. Dahlberg was evading us as we tried to interview him.

I did call Mr. Dean just as soon as General Walters left my office. I am sure that the purpose of the call was to tell him of the visit of General Walters and to tell him of the report made to me that if the FBI pushed our investigation south of the border we could uncover CIA covert operations.

Paragraph 4

I have no recollection whatever of General Walters making any statement to the effect that his "job had been an awkward one".

III. WALTERS MEMORANDUM #5 ---- JUNE 29, 1972 RE HIS
MEETING WITH JOHN DEAN ON JUNE 28, 1972 AT 11:30 A.M.

Paragraph 2

"He [Dean] said that the Director's meeting with Patrick Gray, FBI Director, was cancelled and that John Ehrlichman had suggested that Gray deal with me instead."

In the telephone conversation I had with John Ehrlichman at 11:17 a.m. on June 28, 1972 (Exhibit 6), I do not remember any such direction from him to deal with General Walters instead of Director Helms. I cannot deny that he may have said it to me, I simply do not remember that it was said. As I have testified this was a call in which Mr. Ehrlichman abruptly instructed me to cancel a meeting I had scheduled with Director Helms and General Walters. I remember distinctly saying to Mr. Ehrlichman, "Who is going to make the decisions regarding the interviews to be conducted", and he said, "You do". The context, of course, was interviews with persons with alleged CIA or national security implications. I did not advise or inform Mr. Dean of Mr. Ehrlichman's telephone conversation with me at 11:17 a.m. or my subsequent call to Director Helms at 11:23 a.m. that same day cancelling the meeting. (Exhibit 6.)

Paragraph 7

"After a moment's thought he [Dean] said that he felt that Gray's cancellation of his appointment with Director Helms might well be reversed in the next few hours."

I have no idea what Mr. Dean may have meant by such a remark.

IV. WALTERS MEMORANDUM #6 ---- JULY 5, 1972 RE HIS TELEPHONE CALL FROM GRAY AT 5:50 P.M. ON THE SAME DAY

As I have testified, I telephoned General Walters on Wednesday, July 5, 1972 at 5:54 p.m. and told him that I would need a request in writing rather than a verbal request to continue to refrain from interviewing Mr. Ogarrio and Mr. Dahlberg because of CIA interest in them. My Notes of this conversation, made immediately after the call, read as follows:

"7-5-72 Wed

"TCT General Walters 5⁵⁵_P

"(Dick Walters)

- "1. I will need a request in writing rather than the verbal request to refrain from interviewing Ogarrio and Dahlberg because of CIA interest
- "2. Position of developing investigation indicates there is CIA involvement in that some of these men have been used by CIA in part & there is indication some are currently being used; there is the dollar chain either CIA or political; I do not want to uncover and surface a CIA national security operation in pursuing these leads, but I must for the record have in writing from CIA a request to refrain on the basis of national security matters or I must proceed.
- "3. He stated that he would respond not later than 10 AM tomorrow.
- "4. I said that I would order the interviews if I did not have the writings by 10 AM.

"Gave above info to JWD 6:00 P
WMF to
CWB 6:10 P"

(Exhibit 7)

With respect to General Walters' statement that I told him that "the pressures" on me "to continue the investigation were great" I am quite certain that I did not so express myself. It is entirely possible, however, that on the limited question of the alleged impact of the investigation on CIA/national security matters, the only topic General Walters and I were discussing, I may have expressed the thought that the leads to Messrs. Ogarrio and Dahlberg were clear and that their interviews were a necessity which only the clearest expression of national security interest should prevent and that the FBI, for the sake of its own integrity, would refrain from conducting the interviews only if we received such a written request from the CIA.

With respect to General Walters' statement that "He [Gray] had talked to John Dean", while I have no specific recollection of telling General Walters that I had talked to John Dean it is entirely likely that I did tell General Walters that I had informed Mr. Dean that the FBI was going to interview Messrs. Ogarrio and Dahlberg unless we had a writing from the CIA requesting that we not do so. As I have testified I believe it quite likely that I so informed Mr. Dean in one of several telephone calls during the afternoon of July 3. (Exhibit 8.)

V. WALTERS MEMORANDUM #7 ---- JULY 6, 1972 RE
MEETING WITH GRAY AT 10:05 A.M. ON JULY 6, 1972

My recollection of this meeting differs in several respects from General Walters'. I recall his delivery to me of a memorandum, discussed in more detail below, which disclaimed any CIA interest in Messrs. Ogarrio and Dahlberg.

I recall his preoccupation with the fact that he was unable to give me a writing stating that there was such a CIA interest and his telling me that he would resign if he were asked or directed to give me such a writing. He reported this thought to me several times during our conversation.

As I have testified, I recall that General Walters indicated a feeling of irritation and resentment at the extent to which White House aides had involved themselves in the question of CIA interest but I do not recall his giving me any details and I have absolutely no recollection of his disclosing to me that he had been instructed to bring a false report to me. I asked for no details.

I, too, was concerned and disturbed at the contradictory reports I had been receiving from Director Helms, Mr. Dean and General Walters with respect to CIA interest and at the abrupt cancellation by Mr. Ehrlichman of the meeting I had scheduled with Director Helms and General Walters on June 28 and I undoubtedly so expressed myself to General Walters.

My recollection is that he and I then engaged in a general discussion of the credibility and position of our respective institutions in our society and of the need to ensure that this was maintained. Toward the end of the conversation, I recall

most vividly that General Walters leaned back in the red overstuffed leather chair in which he was sitting, put his hands behind his head and said that he had come into an inheritance and was not concerned about his pension, and was not going to let "these kids" kick him around any more.

We stood up together as he prepared to leave. I cannot recall which one of us suggested that we ought to call the President to tell him of this confusion and uncertainty that had been encountered in determining CIA interest or no CIA interest. I believe it was General Walters who suggested it first, because I can firmly recall saying to him, "Dick, you should call the President, you know him better than I." I believe he said, "No, I think you should because these are persons the FBI wishes to interview." We did not settle on who would make such a call and General Walters left.

At 10:30 a.m. on Thursday, July 6, 1972, immediately following General Walters' departure from my office, I called Assistant Director Bates of the General Investigative Division, told him that I had received the CIA letter, that it was not pertinent and that we should immediately interview Messrs. Ogarrio and Dahlberg. (Exhibit 9, page 9.)

In fact, as I believe I have testified, the FBI probed the fringes of the four Ogarrio checks and the Dahlberg check just as soon as these checks were found to have passed through Bernard Barker's bank account in the Republic National Bank at Miami, Florida on June 21, 1972. We endeavored to interview Mr. Dahlberg

who for one reason or another continued to avoid us and we continued to check his toll call records until finally he was interviewed in early July. Legat, Mexico City, even though ordered not to interview Mr. Ogarrio personally, was instructed to conduct appropriate investigation at Banco Internacional regarding the four Ogarrio checks. These orders to Legat, Mexico City were probably issued on June 23, 1972 and Miami Field Office was instructed to mail photographs of the checks to Mexico City on June 24, 1972. (Exhibit 10.)

On the evening of June 28, 1972 a cablegram was sent to Legat, Mexico City instructing him to interview Mr. Ogarrio concerning the four checks. I believe that this order was issued because of the phone calls I made to Director Helms on June 27, 1972 asking if CIA had any interest in Manual Ogarrio and his reply that CIA had no interest. The order to interview Mr. Ogarrio was cancelled at 8:15 a.m. on June 29, 1972 most probably as the result of a phone call I received from Mr. Dean stating again that there was a national security interest or CIA interest in Mr. Ogarrio and that he should not be interviewed at this time. (Exhibits 12 and 13.)

At 8:30 a.m. on June 29, 1972, Minneapolis Field Office was instructed to make no further attempts to interview Dahlberg but to continue to obtain toll call records. This order was undoubtedly issued as the result of a phone call received from Dean requesting that we hold off interviewing Mr. Dahlberg for national security reasons or because of CIA interest in Mr. Dahlberg.

On June 27, 1972 in a telephone conversation with Mr. Dean I had said to him that if Mr. Dahlberg continued to evade us he would obviously be brought before the grand jury. (Exhibit 9, page 5, Exhibits 11, 12 and 13.)

My response to the Walters memorandum is as follows:

Paragraph 1

a) "The Memorandum which is attached"

I remember General Walters handing me the memorandum but I had recalled it as a single page memorandum. I now know that it was several pages in length. I know that I read it hurriedly and noted that there was no CIA interest in Messrs. Ogarrio and Dahlberg. Later on I sent the memorandum to Messrs. Felt and Bates to read just to be certain that I was correct in my interpretation. As I remember this, I did not send this document around by formal route slip but rather called Mr. Felt and told him I was sending it directly over to him with one of the men in my office and asked that he see to it that Mr. Bates read it.

As indicated above, after General Walters left I ordered that Ogarrio and Dahlberg be interviewed immediately.

b) "In all honesty I could not tell him to cease future investigations on the grounds that it would compromise the security interests of the U.S. Even less so could I write him a letter to this effect."

We did not at any time discuss a curtailment of the entire investigation. In our telephone conversation on July 5 I had asked him specifically about Messrs. Ogarrio and Dahlberg and

had said to him that in interviewing them we did not want to uncover and surface a CIA national security operation. In our July 6 meeting I most definitely recall General Walters saying that he could not write a letter stating that our investigation of Ogarrio and Dahlberg would jeopardize national security. I distinctly remember that his inability to write such a letter to the FBI was the strong central theme of his comments throughout the meeting.

c) "He [Gray] himself had told Ehrlichman and Haldeman that he could not possibly suppress the investigation of this matter...."

I did not discuss the Watergate investigation with Haldeman at any time except that, as indicated on page 1 above, during my confirmation hearings in 1973 at the request of Senator Kennedy I telephoned Mr. Haldeman to ask whether Mr. Dean had shown Mr. Haldeman copies of the FBI reports of interview.

At no time did anyone ever order or request me to suppress this investigation. I was obviously aware of the "hot potato" aspect of the investigation, sensitive to any implication that the FBI would not do a thorough job and undoubtedly told any number of people, perhaps including Ehrlichman and certainly including Dean, that the FBI would follow its leads wherever they led.

I was saying privately as well as publicly, and I may have told General Walters, that there was just no way to stop or divert an FBI investigation once it began. I was making the point publicly in response to press inquiries that no one man could do it and to

control an FBI investigation would require control of too many people from the Attorney General down to the Case Agents. I also was saying at this time and later that even if an attempt were made to control and direct an FBI investigation, the details of such an effort would leak. And in this connection I probably mentioned to General Walters my Saturday, June 24, 1972 meeting with our Washington Field Office Agents on the subject of alleged leaks of FBI information.

Paragraph 2

My recollection of the substance of this aspect of the conversation is different from General Walters. I have no recollection of being told by General Walters that he and Director Helms had met with White House staff assistants and that General Walters had been directed to tell me that pursuit of the investigation would uncover CIA covert operations. I have absolutely no recollection of any kind of being told by General Walters that he had been instructed by White House aides to bring a false tale to me concerning CIA interest and that he had in fact done so on June 23. I am sure that if General Walters had told me this I would remember it. Indeed, I was shocked when I first read newspaper accounts in May 1973 apparently based on this memorandum. I have no recollection of General Walters mentioning any visits or discussions with Mr. Dean.

As I have already indicated, I do remember that he repeatedly stated his inability to write a letter indicating that

the CIA had an interest in Messrs. Ogarrio and Dahlberg and that he would resign if directed to do so. I am quite certain that he spoke of such a course as dangerous to the President and, although I do not recall his use of the phrase "mortal wound", I know that I used it in my subsequent conversation with the President and it seems to me quite likely that I picked up the phrase from General Walters.

Paragraph 3

a) Attorney General Kleindienst

Never did I have any occasion to say to the Attorney General that I could not suppress the investigation within the FBI. And I certainly do not believe I said this to General Walters. I had no reason to do so. Again I believe that General Walters may be confusing my possible references to my public remarks and my thoughts that to control an investigation of the FBI, one would have to control everyone involved from the Attorney General down to the Case Agent. My contacts with Mr. Kleindienst were extremely limited throughout the investigation, never involved discussion of its details and always assumed that the investigation would be full and thorough. In fact at the outset of the investigation I had a telephone conversation with Mr. Kleindienst in which we explicitly agreed that this should be a vigorous investigation. I may very well have mentioned this to General Walters.

b) "He [Gray] had told Ehrlichman and Haldeman that he would prefer to resign, but his resignation would raise many questions that would be detrimental to the President's interests."

I have no recollection whatever of having made this statement to General Walters. I certainly never made such a statement to either Mr. Ehrlichman or Mr. Haldeman. I had so expressed myself to my own people within the FBI in the context of our discussions of our determination to proceed to interview Messrs. Ogarrio and Dahlberg unless we received a written statement of CIA interest. A narrative memorandum prepared by Assistant Director Bates of the General Investigative Division recounts a meeting between Mr. Felt, Mr. Bates and me on June 28, 1972: "I [Mr. Bates] pointed out that under no circumstances should we back off of any investigation at the request of CIA without forcing them to reveal completely their interest in this matter. Mr. Felt and I both pointed out that the FBI's reputation was at stake as well as Mr. Gray's position; that we did not feel we should hold back under any circumstances unless the reasons therefore were publicly expressed. Mr. Gray made it plain that he would not hold back the FBI in this investigation at anyone's request, including the President of the U.S., and if he were ordered to do so he would resign." (Exhibit 9, page 6.) It is certainly possible that I discussed this conversation with Mr. Felt and Mr. Bates with General Walters in the context of his telling me that if he were directed to write a letter asserting CIA interest in Messrs. Ogarrio and Dahlberg he would resign.

c) "He [Gray] was prepared to let this go to Ehrlichman, to Haldeman, or to Mitchell for that matter."

I have no recollection whatever of mentioning specific names and do not believe that I did but it is certainly possible that I told General Walters that I would take the investigation wherever it led.

d) "He [Gray] felt it important that the President should be protected from his would-be protectors. He had explained this to Dean as well as Haldeman and Ehrlichman."

It is possible that I expressed the sentiment contained in the first quoted sentence in the context of responding to the general expressions of irritation at White House aides I heard from General Walters. I could not have told him that I "explained this" to Dean, Haldeman and Ehrlichman because I never expressed such a sentiment to any of them. I had said to Dean on several occasions that the FBI would investigate the case no matter how high it led and may well have told that to General Walters.

e) "He said he was anxious not to talk to Mitchell because he was afraid that at his confirmation hearings he would be asked whether he had talked to Mitchell about the Watergate case and he wished to be in a position to reply negatively."

It is quite possible that I expressed myself along these lines. If I did I am sure that it was in the context of our discussion about expressing our concerns to the President, particularly who, if not the President himself, could be talked to.

f) "He [Gray] said he would like to talk to the President about it but he [Gray] feared that a request from him to see the President would be misinterpreted by the media."

My recollection concerning our conversation about talking to the President is recorded above and I recall nothing further, but it is possible that I did state that I believed a request by me to see the President would be misinterpreted by the media.

g) "I said that if I were directed to write a letter to him saying that future investigation of this case would jeopardize the security of the U.S. and covert operations of the Agency, I would ask to see the President and explain to him the disservice I thought this would do to his interests. The potential danger to the President of such a course far outweighed any protective aspects it might have for other figures in the White House and I was quite prepared to resign myself on this issue. Gray said he understood this fully and hoped I would stick to my guns. I answered him I would."

As stated above, I absolutely do not recall General Walters saying or implying that White House aides had directed him to write a letter falsely claiming CIA interest but the general thoughts in this excerpt about "danger to the President" and "disservice" to the President's interests if General Walters were to be directed to write such a letter are what I recall as being part of the general discussion General Walters and I engaged in.

Paragraph 5

I probably did say to General Walters that the facts would come out eventually as I always believed they would. But I would have had no reason to tell him that I did not believe I could sit on this matter. For the fact was that we were not sitting on it; we were investigating it on a high priority basis. I may again have told him that there was no way for any one man or group of men to control an FBI investigation even if one wished to do so.

VI. WALTERS MEMORANDUM #8 -- JULY 13, 1972 RE
MEETING WITH GRAY AT 2:15 P.M. ON JULY 13, 1972

Before responding to the points raised in General Walters' memorandum of July 13, it seems appropriate, for context's sake, to record the substance of my actions following General Walters' departure from my office on July 6, 1972, the details of which I have already testified about.

After General Walters left the office I sat at my desk quietly and mulled over our conversation. I was confused, uncertain and uneasy. I was concerned enough to believe that the President should be informed.

I decided to call Clark MacGregor to request that he inform the President of what I would tell him. I decided on Mr. MacGregor because I knew he was close to the President and had his confidence.

I called via the White House switchboard at 10:47 a.m. on Thursday, July 6, 1972 and it was reported to me that Mr. MacGregor was out. I spoke to Miss Jablonski at San Clemente, California. I told her that I had some important information to give to Mr. MacGregor regarding Watergate.

At 10:51 a.m., Thursday, July 6, 1972, Mr. MacGregor returned the call and I told him that Dick Walters and I were uneasy and concerned about the confusion that existed over the past two weeks in determining with certainty whether there was or was not CIA interest in people that the FBI wishes to interview in connection with the Watergate investigation. These of course are not my exact words but they do express the thoughts that I conveyed to him.

Again, although these are not the exact words, I also conveyed to him the thought that I felt that people on the White House staff were careless and indifferent in their use of the CIA and the FBI. I also expressed the thought that this activity was injurious to the organizations, the CIA and the FBI, and that these White House staff people were wounding the President.

I asked if he would please inform the President and it is my best recollection that he said he would handle it.

At 11:28 a.m. on Thursday, July 6, 1972, the President called to express his congratulations to the FBI and to ask that I express his congratulations to the Agents in San Francisco who did such a great job in terminating the hijacking there yesterday by the Yugoslav hijackers. I thanked the President and then said to him, and to the very best of my recollection these are the words:

"Mr. President, there is something I want to speak to you about.

"Dick Walters and I feel that people on your staff are trying to mortally wound you by using the CIA and FBI and by confusing the question of CIA interest in, or not in, people the FBI wishes to interview.

"I have just talked to Clark MacGregor and asked him to speak to you about this."

There was a slight pause and the President said, "Pat, you just continue to conduct your aggressive and thorough investigation."

Following this conversation I experienced no further concerns of this kind. I believed that if there was anything to the concerns I expressed to the President or to Mr. MacGregor that I would hear further in the matter. I did not.

My response to General Walters' memorandum is as follows:

Paragraph 1

Correct. He entered at 2:16 p.m. and left at 2:31 p.m.

Paragraph 2

Until I recently saw a copy of a memorandum with my handwriting on it, "Received 2:15 p.m., 7-12-72, from LGEN WALTERS", at the United States Attorney's Office I had no recollection or remembrance of a delivery of this memo. I still do not recall noting its contents at the time. I am told that the original of this memo was found in my safe after I left. I probably gave it to my secretary to put in the safe after General Walters left. It is also possible that I may have had this hand-carried to Messrs. Felt and Bates as I did the July 6, 1972 memo that General Walters brought to me.

Paragraph 3

a) "He thanked me and said that this case could not be snuffed out and it would lead quite high politically."

I do not remember how or why this subject could have come up at this meeting. In any event I could not have said, "it would lead quite high politically", because I had no basis for such a belief. I suppose I could have speculated that "it could lead quite high politically" or stated that in a case of this nature there is no telling where leads might run. I do not remember any

part of the conversation which might have caused me to be talking about "snuffing" out the case. After the July 6, 1972 writing was delivered to me and I ordered the immediate interview of Messrs. Ogarrio and Dahlberg, we had no problems with CIA interest, or non-interest, in our prospective interviewees.

b) "Dahlberg was in the clear. He had gotten the check from Maurice Stans and had deposited it in the Mexican bank."

I do not remember talking to him about the Dahlberg check. He may have asked me. In any event if we did discuss it, I could not have made these statements. The facts were that Mr. Dahlberg when interviewed told us that he had collected these monies in Boca Raton and had turned them over to Mr. Stans and did not know what happened to them thereafter. These funds, to the best of our knowledge in the FBI, were never deposited in the Mexican bank and Stans did not give the check to Mr. Dahlberg. Mr. Dahlberg gave the check to Stans.

I do not recall discussing this with General Walters, but, if I did, I would certainly have discussed it on a factual basis. I think he was just mixed up in writing or dictating his memo simply because he was not as familiar with the facts in these particular transactions as I was. I may very well have told him it was undoubtedly a political contribution or it was political money. All along we in the FBI thought this to be a CIA covert operation, a CIA money chain, a political operation, a political money washing operation or a combination thereof.

c) "Last Friday, the President had called him to congratulate him on the FBI action which had frustrated the airplane hijacking in San Francisco. Towards the end of the conversation the President asked him if he had talked to me about the case. Gray replied that he had. The President then asked him what his recommendation was in this case. Gray had replied that the case could not be covered up and it would lead quite high and he felt that the President should get rid of the people that were involved. Any attempt to involve the FBI or the CIA in this case could only prove a mortal wound (He used my words.) and would achieve nothing. The President then said, 'Then, I should get rid of whoever is involved no matter how high?' Gray replied that that was his recommendation. The President then asked what I thought and Gray said that my views were the same as his. The President took it well and thanked Gray."

The President spoke to me at 11:28 a.m. on Thursday, July 6, 1972. I have recorded above my entire recollection of the call.

With regard to General Walters' version of my conversation with the President, I have to say that it does not square with my memory of what I said to the President or what I said to General Walters about the call from the President. At this July 12, 1972 meeting with General Walters it is my best recollection that I merely said to him that I had spoken to the President last week on the subject we discussed when the President called to congratulate us on a hijacking. I certainly do not remember discussing the conversation other than to tell him just what I had said to the President.

I am quite positive that I did not say to the President that the case could not be covered up, and I have no recollection whatever of telling him that it would lead quite high, and that I felt the President should get rid of the people who were involved. And I am just as positive that I did not make such remarks to General Walters. I probably did tell General Walters that on several occasions I had told John Dean that this investigation would have to expose whoever is involved no matter how high it reached, that Mr. Dean had responded "No matter how high?" and that I said "Yes, no matter how high." Perhaps General Walters has confused my conversations with Mr. Dean with my conversation with the President.

The only response by the President I now recall or have ever recalled to my remarks was that we should continue our thorough and aggressive investigation.

d) "Later on that day, Gray had talked to Dean and repeated the conversation to him. Dean had said, 'Okay'. Gray had heard no more on the subject. He asked whether the President had spoken to me and I said that he had on another matter, but had not brought up this matter with me."

I could not have said that I talked to Mr. Dean and repeated the conversation to him. I did not at any time tell Mr. Dean that I had spoken to the President. My logs, moreover, show no calls to or from Dean and no visits with Dean from July 6, 1972 through July 11, 1972.

I did ask General Walters if the President had spoken to him about my call. He said he had talked to the President but not

on this subject. I did tell him that I had heard no more on the subject from anyone.

Paragraph 4

a) "Gray then said that the U.S. Attorney had subpoenaed the financial records of the Committee to Re-elect the President. It had been suggested to him that he stop this. He replied that he could not. Whoever wanted this done should talk to the Attorney General to see if there was any legal way to do this. He could not."

I have absolutely no recollection of anyone ever contacting me to stop any subpoena. I believe I would recall such an event if it occurred. I would certainly have directed any such inquiries to the Attorney General, Assistant Attorney General or the United States Attorney, I simply do not know how General Walters could have received this thought. It is possible that we could have been discussing a news story, if there was one, about the FBI not subpoenaing appropriate records. But I do not remember discussing this subject with General Walters.

b) "He said that he had told the President in 1968 that he should beware of his subordinates who would try to wear his Commander-in-Chief's stripes."

I probably said this to General Walters because I had expressed this thought to the President in a letter to him just after his election in 1968.

Paragraph 5

I have no memory of again discussing with General Walters our respective resignations at this meeting.

VII. WALTERS MEMORANDUM #9 -- JULY 28, 1972 RE
MEETING WITH GRAY AT 11:00 A.M. ON JULY 28, 1972

In General, I must state that I do not recall or remember the details of this meeting with any degree of precision. It is possible that I recounted the details of this meeting to Mr. Felt or to Mr. Bates and either one of them may have a memorandum in their files regarding it, or the FBI files may contain other relevant information on "Mr. Cleo".

I do know that I did have a telephone conversation with Mr. Helms regarding "Mr. Cleo" and this could very well have been the subject of a call I made to Mr. Helms on Thursday, July 27, 1972 at 9:25 a.m. I am quite certain that I was told by Mr. Helms that "Mr. Cleo" was an electronics engineer for the CIA who had no connection with Watergate, but I am not certain that Mr. Helms and I discussed "Mr. Cleo" on July 27, 1972 at 9:25 a.m. even though I am quite certain that we did have the conversation regarding "Mr. Cleo". I just cannot be sure of the exact date and time.

I do know that I discussed "Mr. Cleo" with Mr. Felt on Friday, July 21, 1972 along with three other matters in a meeting with him from 2:30 p.m. to 3:10 p.m. He may very well have notes on this discussion. Further, Mr. Parham of our Alexandria Field Office may be able to shed some light on his own inquiries re "Mr. Cleo".

As to the specifics of paragraphs 2, 3 and 4 I have no recollection or memory of General Walters passing this kind of

information to me. Hunt's prior activities, whatever they were, did not have significance for me in relation to Watergate.

I probably did ask General Walters if the President had called him, yet I have no specific recollection of doing so, nor do I recall his reply.

At no time in any of my conversations with General Walters do I recall or remember saying to him that pressure had been brought to bear on me. Any possible reference to "pressure" could only refer to the Mexican matter -- the Barker, Ogarrio, Dahlberg dollars -- and the asserted CIA/National Security dimension. The Dean calls were harassing and could be construed as "pressure", but I did not at the time view them as pressure but as harassment of a sort on the part of the Counsel to the President.

General Walters and I may have been discussing the integrity and credibility of our two agencies and I could have told him that it began to look as if the Mexican money chain was also a political contribution chain from Texas contributors and that we were going to have to run it down in relation to the criminal investigation of the bugging of Democratic Headquarters.

If General Walters told me that they intended to terminate the 965-9598 number it had no significance to me. I did not know anything about such a number and certainly would not have asked any questions about this number simply because I would have believed it to be a number associated with CIA operations and I would not have made any inquiries concerning this number.

I could have said to General Walters, "This is a hell of a thing to happen to us at the outset of our tenure with our respective offices", although I do not remember saying it to him on this particular occasion.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Thursday, June 7, 1973.

The subcommittee met, pursuant to recess, at 10:03 a.m., in room 2216, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order.

Today we are continuing our inquiry into the CIA-Ellsberg Watergate matter and have as our witness Mr. H. R. Haldeman, formerly of the White House staff; accompanied by counsel, Mr. Frank Strickler.

Mr. Haldeman, would you stand and take the oath, please?

Do you swear that the testimony you are about to give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. HALDEMAN. I do.

Mr. NEDZI. If you have a statement you care to make, Mr. Haldeman, please do so, then we will get in some questions and answers.

Mr. HALDEMAN. I do have a brief statement, Mr. Chairman, if that would be appropriate.

Mr. NEDZI. You may proceed.

**STATEMENT OF H. R. HALDEMAN, FORMER WHITE HOUSE STAFF
MEMBER, ACCOMPANIED BY FRANK STRICKLER, COUNSEL**

Mr. HALDEMAN. Mr. Chairman, members of the committee, I believe that the only area in which I can be helpful to you in your current investigation is with respect to the reported meeting of White House and CIA officials last June.

On June 23, 1972, John Ehrlichman and I were requested by the President to meet with Director Richard Helms and Deputy Director Vernon Walters of the CIA. John Dean had reported to me that the FBI had requested guidance regarding some aspects of the Watergate investigation, and I advised the President of Mr. Dean's report. He in turn asked me to meet with Ehrlichman, Helms, and Walters.

To the best of my recollection, the purpose of this meeting was fivefold:

1. To ascertain whether there had been any CIA involvement in the Watergate affair;

2. To ascertain whether the relation between some of the Watergate participants and the Bay of Pigs was a matter of concern to the CIA;

3. To inform the CIA of an FBI request for guidance regarding some aspects of the Watergate Investigation because of the possibility of CIA involvement, directly or indirectly;

4. To discuss White House concern regarding possible disclosure of non-Watergate-related covert CIA operations or other national se-

curity activities that had been undertaken previously by some of the Watergate principals;

5. To request Walters to meet with Acting Director Gray of the FBI to express these concerns and to coordinate with the FBI so that the FBI's area of investigation of the suspects not be expanded into unrelated matters which could lead to disclosure of their earlier national security and CIA activities.

The meeting was held in Mr. Ehrlichman's office on the afternoon of June 23 and, to the best of my recollection, all of the above points were covered.

As I recall, Director Helms assured us that there was no CIA involvement in the Watergate and also that he had no concern from the CIA's viewpoint regarding any possible connections of the Watergate personnel with the Bay of Pigs.

I would like to insert here a point on the Bay of Pigs question because some question has arisen regarding the reason for reference to the Bay of Pigs at all in this.

One point that was raised, as I indicated, at this meeting was the question of whether the relation between some of the Watergate participants and the Bay of Pigs was a matter of concern to the CIA.

The reason for raising this point, as I understand it, was that several of the men that were arrested in the Watergate break-in, and Mr. Howard Hunt, who was later arrested but at that time whose name had been raised in connection with the Watergate break-in—several of these people had actually participated in the Bay of Pigs operation.

Mr. NEDZI. On whose initiative was that point raised?

Mr. HALDEMAN. The point was raised by me under the overall instructions I had from the President as to the five points to be covered at the meeting.

The reason for possible concern would be if the FBI investigation of these individuals led back to their Bay of Pigs involvement, and in the process uncovered information of concern to the CIA.

I understand that there is or was considerable sensitivity at the CIA regarding the Bay of Pigs. For example, I have been told that Director Helms in 1971 asked the White House to assure that no material regarding the Bay of Pigs that was in the hands of the White House be given to Howard Hunt who was working at the White House at that time.

And I read just recently that Howard Hunt is about to publish or has published recently a book on the Bay of Pigs, which would indicate the continuing interest on Mr. Hunt's part at least in the Bay of Pigs.

If there is some possible problem to the CIA regarding the Bay of Pigs, and apparently the President felt there was, then this investigation did pose a potential problem, and that was the reason for the question of the Bay of Pigs being raised.

Going back to my statement, Helms told us he had given this assurance to Gray directly.

Walters agreed to meet with Gray as requested. I do not recall having any further communication or meeting with Walters, Helms or Gray on this subject.

I do not specifically recall the question of Mexican aspects, as they have been referred to, being discussed at this meeting, although I do not question General Walters' report that this was covered. We did discuss the concern that, in the interest of national security and the former relationships of some of the principals with CIA, the FBI investigation be limited to the Watergate case specifically and not expanded into prior activities of the individuals involved. We did this in the full belief that we were acting in the national interest and with no intent or desire to impede or cover up any aspect of the Watergate investigation itself.

I do not recall any subsequent discussion with John Dean regarding this meeting. I do not recall any discussion at any time of a suggestion to involve the CIA in the Watergate matter except as described above. Specifically, I do not recall hearing of any idea of having CIA furnish bail or pay suspects' salaries while in jail, using covert action funds.

It must be understood that, at the time of our meeting with the CIA, June 23, we had only very sketchy knowledge of what and who were involved in the Watergate affair. We had no reason to believe that anyone in the White House was involved and no reason, therefore, to seek any coverup of the Watergate investigation from the White House. On the contrary, everyone in the White House was instructed to cooperate fully with the Watergate investigation—and, so far as I knew at the time, was doing so.

At the same time, there was concern at the White House that activities which had been in no way related to Watergate or to the 1972 political campaign—and which were in the area of national security—would be compromised in the process of the Watergate investigation and the attendant publicity and political furor. Recent events have fully justified that concern—with the disclosure of the FBI wiretaps on press and NSC personnel, the details of the plumbers' operation. I could add today, the release of the security material that the New York Times has published that they got out of John Dean's safe deposit box.

In summary, the meeting of June 23 with the CIA was held at the President's request in the interest of national security. I do not believe there was any intention to coverup the Watergate. I do not believe there was any direct connection between this meeting and General Walters' subsequent meetings with John Dean. I believe I acted properly, in accord with the President's instruction, and in the national interest.

This statement is the same statement that I made before the Senate committee looking into this same matter. And when I met with them I also made the point that in reviewing the transcript of testimony before that committee by Ambassador Helms on May 16 I found two areas that required clarification.

First, it should be emphasized that there was only one meeting in which Helms, Ehrlichman and I participated—the one on June 23—at which General Walters was also present. The other meetings to which General Walters refers in his affidavit and memorandums were between him and John Dean—and, as I stated above, I do not believe there was any direct connection between the June 23 meeting and the subsequent meetings.

Second, at the June 23 meeting there was no discussion, intimation, or feeler about the CIA taking any responsibility for the Watergate operation.

I could say that Mr. Helms made that clear in his testimony before the Senate committee.

I would be happy to answer any questions that the committee may have, Mr. Chairman.

Mr. NEDZI. Thank you.

What kind of orders did you get from the President, Mr. Halde-
man? Could you be more specific than your statement?

Mr. HALDEMAN. Yes, sir. Can I give you a little narrative as to how it came about and I think that might be helpful.

Mr. NEDZI. Yes.

Mr. HALDEMAN. Either the evening of June 22 or the morning of June 23—I believe it was the morning of June 23—I was told by John Dean, who was in contact with the FBI and other investigating authorities on the Watergate matter—

Mr. NEDZI. When did he make the contact?

Mr. HALDEMAN. I am not sure there was any act taken that made him the specific contact. He, as counsel to the President, had the liaison with the FBI, for legal liaison with the campaign committee, and for White House liaison on direct legal matters with the Justice Department.

It was a natural outshoot of that that he had the responsibility and assumed it, and took it on, of dealing with Watergate matters as they arose.

Mr. NEDZI. June 22 was the first time he contacted you with respect to this affair?

Mr. HALDEMAN. No, sir. This was the first—

Mr. NEDZI. When was the first time?

Mr. HALDEMAN. I am not sure. I am not sure.

Mr. NEDZI. A day earlier, 2 days earlier, the day after it occurred, the day it occurred?

Mr. HALDEMAN. Some time earlier in that week, but I am not sure what day. I can't give you a better time than that.

I am not even sure what day of the week we are talking about—the 17th was a Saturday, I guess, so the 23d would be a Saturday—the 23d would be Friday.

I would imagine it was Monday or Tuesday that I had the first contact with Dean on this matter.

Mr. NEDZI. It would be the 18th or 19th. What was the substance of that contact?

Mr. HALDEMAN. I don't recall, Mr. Chairman. I have no specific recollection of any points that had been raised. I tried to go back on these particular areas where questions have been raised, and lay out to the best of my recollection what specifically came up at what point in time. The first time any question of the CIA came up that I am aware of is in this meeting that I—I don't know if it was a meeting—this conversation I had with Dean either the evening of the 22d or the morning of the 23d.

At that time he indicated that the FBI was concerned and was seeking guidance regarding their investigation as it might pertain to the

CIA. The question had come up in their minds, apparently, that there may be some CIA involvement here.

Mr. NEDZI. Was this in the morning, Mr. Haldeman?

Mr. HALDEMAN. If it was on the 23d, it was the first thing in the morning. If it was on the 22d, it was in the evening. I believe it was the morning of the 23d, the first thing in the morning.

Mr. NEDZI. Prior to your meeting with Walters and Helms?

Mr. HALDEMAN. Yes, this is what brought about the meeting with Walters and Helms. As a result of Dean raising this point, I reported this to the President when I met with him the morning of the 23d as one of a number of things that I had to review with the President that morning.

The President, in response to that information from Dean that I had passed along, said, in effect, you and Ehrlichman get together with Helms and Walters and find out—and then he laid out these five points, raised these points—and it was carried out in that way. I've got to put it in context. This was not a formal or major action on the part of the President. It was one of a number of items that were reviewed that morning with him, and one of a number of things that he gave me instructions to have done during that day. This would have been normal operating procedure.

Mr. BOB WILSON. Did you write down notes at that time, Mr. Haldeman, of the five points? Is that your usual practice?

Mr. HALDEMAN. Well, I would sometimes make a general note and sometimes not, and I am not sure whether I did or not on that, but again, as I am saying, this is the best of my recollection of what the purpose of the meeting was.

I do recall these points being raised as things that were to be covered in this meeting.

Mr. NEDZI. Don't you ordinarily make notes when you get an assignment of this kind which requires certain things to be done?

Mr. HALDEMAN. Yes, I make general notes. And I probably did in this case.

Mr. NEDZI. Those notes aren't available, though?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. Please proceed.

Mr. HALDEMAN. All right. As a result of that instruction from the President we set up the meeting, and met with Helms and Walters that afternoon.

Mr. NEDZI. Was the President's instruction to you limited to these specific points? Did you have any discussion with him whether there should be additional concerns, or whether there is no need to be concerned about some of these points?

Mr. HALDEMAN. No. As best I can recall, Mr. Chairman, this was a quick thing where the President said, you and John get together with them and find out whether there was any involvement in the Watergate. Find out whether they have any concern about the Bay of Pigs and the fact that those people were involved. Tell them that the FBI has raised this question and is asking for guidance on it. Tell them that I am concerned, the White House is concerned, about the question of getting in—of the investigation getting into non-Watergate-related aspects of that prior activity, or activities of these individuals

and ask Walters to meet with Gray and coordinate this and work it out.

Mr. NEDZI. Did he indicate anyone else had suggested these concerns to him?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. Was he reading from notes of his own at any time?

Mr. HALDEMAN. No, I think this was just his spontaneous reaction to the point I had raised with him, that John Dean had told me that the FBI was concerned about this question of impingement.

Mr. NEDZI. Was there any concern about the Mexican aspects?

Mr. HALDEMAN. I don't recall that, as I have stated here. I can't deny the possibility, because I have great respect for General Walters' ability.

Mr. NEDZI. Everybody else recalls the Mexican aspect.

Mr. HALDEMAN. I realize that.

Mr. BOB WILSON. I think another point is, did the President bring up to you any aspect of Mexican covert activities that might be shown?

Mr. HALDEMAN. As I say, Congressman, I have no recollection of the Mexican aspect.

Mr. BOB WILSON. There were two different meetings we are talking about. One was the meeting where you got the instructions from the President, later there was the meeting where you relayed those instructions on to the CIA people. At either meeting was there reference you can recall to the Mexican-CIA covert activities being compromised?

Mr. HALDEMAN. That is right. I just don't recall that.

Mr. NEDZI. This conversation, or this order to you from the President, was only in the presence of the two of you gentlemen?

Mr. HALDEMAN. That is correct.

Mr. NEDZI. Following that conversation, what did you do?

Mr. HALDEMAN. I am not sure how the meeting was set up, but I, in some way, had that meeting set up, and I have been asked what the steps were and I just don't know, I don't know whether my office set it up or whether I may have called Ehrlichman from the President's office or from my office and asked him to set it up. I am not sure.

Mr. NEDZI. Why would Ehrlichman be involved?

Mr. HALDEMAN. I am not sure.

Mr. NEDZI. Can you speculate for our benefit?

Mr. HALDEMAN. The only reason would be that Ehrlichman had been involved and had been in charge of the earlier activity of these people—some of these people—in regard to what is now known as the "plumbers' operation," and that that was one of the areas of concern here. I think that Ehrlichman may have been at least peripherally involved in a review of security materials, Bay of Pigs kind of things, and earlier events that were being summarized as a part of an overall security review, security classification review, and review of leaking of national security documents, and that sort of thing that had been going on at the White House at an earlier time.

In other words, he was involved in some of the areas of leaking of national security material, disclosure of national security material, and I think because the concern that was involved here was one re-

lated to that, that it seemed logical to the President to have Ehrlichman in the meeting.

Mr. NEDZI. Doesn't that contradict your statement on page 3 where you said "We had no reason to believe anyone in the White House was involved"?

Mr. HALDEMAN. No, sir; that was involved in the Watergate.

Mr. NEDZI. That is what we are talking about, isn't it?

Mr. HALDEMAN. No.

Mr. NEDZI. What are we talking about?

Mr. HALDEMAN. We are talking about the concern that investigating the Watergate, investigating beyond Watergate-related activities of the individuals and into other nonrelated activities of those same people.

Mr. NEDZI. Still talking about people being involved in the Watergate affair, though.

Mr. HALDEMAN. Yes; but the area of concern was not whether those people were involved in the Watergate. That, I guess, wasn't a legally established fact but it already was an apparent fact.

Mr. NEDZI. In setting up the meeting, did you tell Ehrlichman of what the President's instructions were?

Mr. HALDEMAN. I don't recall that I did, other than to say that the President asked me to meet with Helms and Walters.

I am not sure—I am not sure whether I discussed the points that were to be raised at the meeting with him prior to the meeting or not. I don't know whether we were in touch prior to the meeting.

Mr. NEDZI. Why would the President ask both Helms and Walters to attend the meeting at this time?

Mr. HALDEMAN. I am not sure.

Mr. NEDZI. Helms was the Director.

Mr. HALDEMAN. That is right.

Mr. NEDZI. Do you have any explanation of why both of them should be called?

Mr. HALDEMAN. No. I don't think it is surprising that they would be.

Mr. NEDZI. Why was Walters the one to whom instructions were given?

Mr. HALDEMAN. I don't know that, either. And, again, I don't think it is surprising that he was. This was not—as I tried to characterize, the meeting with the President was not a long, carefully thought out development of instructions to me. It was his reaction—quick reaction—to a point that I had raised with him, and his instructions to me as to the steps to take in response to that.

Mr. NEDZI. What did you tell Helms and Walters at the time of the meeting?

Mr. HALDEMAN. I have tried as best I can to lay that out in the statement that I have made. In other words, I reviewed these five points with them. That is the best I can recall.

Mr. NEDZI. How long was the meeting?

Mr. HALDEMAN. I am not sure. I think I have been told that, or someone else has testified it was about 20 minutes.

Mr. NEDZI. Is that sufficient time to cover all of these points?

Mr. HALDEMAN. Yes. It didn't take much time. We weren't trying to investigate anything. We were merely trying to make these points. It didn't take very long to make the points, and it didn't take Director Helms very long to give us the assurances in answer to the first two questions. And there wasn't much to be covered on this beyond that.

Mr. NEDZI. You were clear in your mind they comprehended what you were telling them?

Mr. HALDEMAN. Yes, sir.

Mr. NEDZI. You had the benefit of Mr. Helms' testimony in the Senate committee. Did Mr. Helms at that time say there was some incoherent reference to Bay of Pigs?

Mr. HALDEMAN. I have seen a report somewhere in which he said there was some incoherent reference to the Bay of Pigs, and that he said that he thought it was an euphemism. He didn't say it at the meeting. I only read that somewhere. I am not sure where I read it.

Mr. NEDZI. Quoting from page 194 of our record, "one of these points was some remarks that Mr. Haldeman made at the June 23 meeting, a rather incoherent remark about the Bay of Pigs, and how further investigation would run into the Bay of Pigs, and I recall quite clearly I said we know the Bay of Pigs was a long time ago. I don't care anything about the Bay of Pigs so don't worry about the Bay of Pigs."

Is that an accurate statement of what occurred in your meeting with Mr. Helms?

Mr. HALDEMAN. I would have no quarrel with that statement, except the incoherence. I didn't intend to be incoherent in raising it. I don't know that I was. I did raise the point of the Bay of Pigs. Director Helms, to him it may have been an incoherent point. It was not to me, because it was a point I had been told to raise, and if I may say so, Mr. Chairman, I found Director Helms' answer to that question to be a very fast—I would recall it pretty much as he characterized it there, as quite a fast and in my opinion out of character with Dick Helms' kind of an answer. He hit very hard on it.

"I don't care anything about the Bay of Pigs," or something to that effect, and I found that sort of surprising because I didn't know why the Bay of Pigs point was being raised here either. But his reaction to it being raised seemed to me to be more than routine reaction.

Mr. NEDZI. You are somewhat confirming what he says on page 195 when he said:

Well this was not—when I said the remark was incoherent, I simply mean that because I really didn't understand what he was talking about as far as the Bay of Pigs was concerned. I don't know whether he really understood himself. He was making an aversion to it and I don't know why he was doing it, and I don't know to this day why.

Mr. HALDEMAN. Well, I told you why.

Mr. NEDZI. Did you tell him?

Mr. HALDEMAN. Pardon me?

Mr. NEDZI. Did you tell him?

Mr. HALDEMAN. No, sir, he didn't ask me why. He didn't indicate to me at the meeting he didn't understand why I was raising it. He, as I said, gave quite an abrupt and strong answer that "I have no concern with the Bay of Pigs." No, I didn't know much about this national security investigation that was going on earlier. The leak investigation,

and the classification investigation and so on. I understand, and I think you can get more information from Mr. Ehrlichman on this point when he meets with you, because I think he has more firsthand knowledge, but I understand, as I indicated in this sort of addendum that I made to my statement, that back in 1971 when the White House was looking into the documentation of a number of CIA and other national security activities that were considered highly sensitive—these activities of prior administrations as well as this administration—that Director Helms had made quite a point of his concern that the information which the Agency was providing on the Bay of Pigs not be revealed to or made available to Howard Hunt, who we understood at the time was working at the White House.

I think I can also say that there was—and this is just recollection, and you would have to confirm it from some other source—but that there was a concern—I believe General Taylor or somebody, the name Maxwell Taylor comes to mind, I think that is who it was—had been earlier commissioned to do a thorough study of the Bay of Pigs, and that study had for some reason disappeared and was not available at the time that materials were being assembled on some of these operations.

That was a point of interest. I think—in other words, the only reason I am citing these is to try to, out of my rather sketchy knowledge of this area, try to be of some help in this question which I didn't consider a sticky question or a matter of great concern until the questioning at the Senate committee, and the nature of your questioning here that obviously it is a matter that concerns you.

I thought maybe some of these areas might be helpful in clearing that up.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. Mr. Chairman, I wish we could get a little clearer chronology here of the events of that week. The break-in was on the 17th, the publicity was Sunday, the 18th. Were there press accounts that some of the people involved had been connected with the CIA and the Bay of Pigs invasion, and was there any publicity at the time of the meeting on the 23d to the effect that funds had gone into a bank in Mexico, and had later been connected with Barker and the others? I don't have that chronology.

In other words, it would seem to me at the time of your meeting, that this was a later revelation—the Mexico aspect of it. I don't think by that time, which was about 5 days after the publicity, there was yet any story about the fact that funds had been channeled through a bank in Mexico into a bank account by one of the parties arrested.

Mr. HALDEMAN. I think that is correct. There had been publicity, but I think—and Director Gray has met with this committee, I believe, hasn't he?

Mr. BOB WILSON. Right. He had some knowledge of it?

Mr. HALDEMAN. Yes, when you go into this area, Director Gray, as I recall from reading other statements of his, I have not seen the transcripts of any of the testimony before this committee, but as I recall, he or the Bureau was aware of the Mexican connection, as it has been called, prior to the action of the 23d.

Mr. BOB WILSON. Were you aware of it?

Mr. HALDEMAN. I don't have a recollection that I was. That is the best answer I can give.

Mr. NEDZI. When do you first recall knowing about this Mexican aspect?

Mr. HALDEMAN. I don't know.

Mr. NEDZI. Was it last week?

Mr. HALDEMAN. Oh, no, it was back in that period of time, because there was publicity about it. If not before June 23d, somewhere not too long after June 23d, I believe.

Mr. BOB WILSON. Your first knowledge of it was when you read it in the papers?

Mr. HALDEMAN. I am not sure of that. I am not sure of that. I may have been told something about it before. I just don't have a clear recollection.

Mr. NEDZI. Did you ever discuss the Mexican situation in that connection?

Mr. HALDEMAN. With whom?

Mr. NEDZI. Anybody.

Mr. HALDEMAN. I have no recollection of doing so. As I say, I can't deny that that subject was included in the discussion on the 23d. I simply have no personal firsthand recollection that it was.

Mr. NEDZI. Do you know Mr. Dahlberg?

Mr. HALDEMAN. Do I know him?

Mr. NEDZI. Yes.

Mr. HALDEMAN. No, sir.

Mr. NEDZI. Do you know of him?

Mr. HALDEMAN. I know of him, yes.

Mr. NEDZI. Through accounts other than newspaper accounts?

Mr. HALDEMAN. Yes. I have known that he was one, I think, regional finance chairman or something of that sort for the Reelection Committee—the Finance Committee.

Mr. NEDZI. You have never participated in any discussions with respect to him or any Mexican problems?

Mr. HALDEMAN. No, I don't believe I have.

Mr. NEDZI. You mentioned something earlier, Mr. Haldeman, that is of interest to the committee. When did Helms advise you or the White House that information about the Bay of Pigs was not to be given to Hunt?

Mr. HALDEMAN. I understand this was back in 1971.

Mr. NEDZI. Pinpointing the date is of some consequence.

Mr. HALDEMAN. I understand that, sir, but I can't do it. As I suggested, I think John Ehrlichman can give you a better rundown on that, because it was in relation to this project of classification of documents and leakage and so forth, and that is something with which he was familiar and I was not.

Mr. NEDZI. Was it in the early part of the year?

Mr. HALDEMAN. I shouldn't think so. I should think the latter part, but I don't know.

Mr. NEDZI. How did the information come to you?

Mr. HALDEMAN. From Mr. Ehrlichman in a general conversational sense.

Mr. NEDZI. It didn't come from Mr. Helms?

Mr. HALDEMAN. No. That is why I tried to qualify what I was say-

ing as being—I will put it, what I told you in that regard is totally hearsay, and I was only raising it for guidance to direct the committee to another source that I think could be more valuable on it.

Mr. NEDZI. What was the substance of your conversation with Mr. Dean on June 22 or the the morning of June 23?

Mr. HALDEMAN. Simply as I indicated, as I recall a brief report from him saying the FBI is concerned about where this investigation may lead and the problem of the CIA involvement with some of these people, and the possibility they may be getting into some CIA matters, and they are asking for guidance on it.

Mr. NEDZI. Can you be more specific than that? Was there anything more specific?

Mr. HALDEMAN. Not that I can recall; no.

Mr. NEDZI. What did you take it they meant?

Mr. HALDEMAN. They were raising the question that there was a potentially sensitive area which, if they got into, could create problems. I must say that that seems to be, that concern seems to be substantiated not only by the developments here, but by the report I have also seen in testimony—and I think it has been in the press—that the CIA did formerly ask the FBI not to interview two specific individuals because they were concerned, even after this expression of no concern and after, and as a result, when it finally was run out of this no concern that the FBI was then instructed to go ahead, as I understand, with their investigation without worrying about any crossing of CIA lines.

Mr. NEDZI. Except that concern had nothing to do with uncovering covert assets, did it, the request of the CIA to the FBI?

Mr. HALDEMAN. I don't know. I have no idea. I don't know what you mean by "covert assets." I have heard that term, but I don't know what it means.

Mr. NEDZI. That is the rationale which General Walters used in appealing to Mr. Gray to suspend FBI activities, or at least limit.

Mr. HALDEMAN. Covert activities is the term I recall, or the term that I would think I probably used. I don't know very much about the operation of the CIA, but I know they are engaged in covert activities.

Mr. NEDZI. The request of CIA to FBI in order to not interview these two witnesses, didn't have anything to do with uncovering covert activities, did it?

Mr. HALDEMAN. I haven't any idea. As I said, I have only seen reference to that request.

Mr. NEDZI. It is substantiated by this fact. My point is that fact doesn't substantiate that. That was the concern of the CIA.

Mr. HALDEMAN. I don't know what their concern was, but they must have had some concern about what damage might be done by the FBI interviewing these people or they wouldn't have asked them not to interview them.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. The fourth of the five points that the President brought up and asked you to clarify with Helms and Walters was to express concern regarding a possible disclosure of non-Watergate-related covert CIA operations or other national security activities that had been undertaken.

I would not presume that you would have known at this time that Liddy was involved in these other national security activities, or Hunt was involved, because this was pretty much a secret operation. There is no attempt on your part, or even on the President's part, from what I can read of this statement, to try to deny that there was a White House concern about these leaks, and there were covert national security activities going on that might be compromised by FBI investigation; is that right?

Mr. HALDEMAN. Your conclusion is correct, Mr. Wilson. Let me correct one part of your assumption, however. I was generally aware of the so-called plumbers operation.

Mr. BOB WILSON. You are not denying this was underway?

Mr. HALDEMAN. Oh, no.

Mr. BOB WILSON. It was a necessary thing because of the leaks of the Pentagon Papers?

Mr. HALDEMAN. That is right, but it had no relation in any way, shape, or form to the Watergate.

Mr. BOB WILSON. Yes.

Mr. HALDEMAN. The point is I did know Hunt had been, or I had been told that Hunt was involved in this plumbers activity. I knew he had been over at the White House. I knew in general that he had been engaged in this project of concern about leaks and disclosures of classified information and that sort of thing.

So that very definitely is what I am referring to in this point, and I wasn't doing it in ignorance. I also knew, as of course the President did, of the general operation. I did not know of the specifics of any activity that had been carried out by the plumbers group at that time, and was not referring to any specific thing, but merely the general fact that these men had at an earlier time been engaged in this sensitive activity, the disclosure of which would be undesirable, and which I would contend has not subsequently been disclosed, and its disclosure has been undesirable.

Mr. NEDZI. In your statement, you say the President asked you to request Walters to meet with Acting Director Gray?

Mr. HALDEMAN. That is the way I recall it; yes, sir. That was one of the things that the President said to get done at that meeting.

Mr. NEDZI. And coordinate with the FBI, so the FBI's area investigation of suspects not be expanded into unrelated matters?

Mr. HALDEMAN. Matters not related to Watergate, in other words.

Mr. NEDZI. Why would the FBI get into unrelated matters?

Mr. HALDEMAN. As in a wide sweeping investigation like this, I think they start down the path of what an individual has been doing, and I think it would be quite logical they would.

Mr. NEDZI. How could they keep from getting into unrelated matters?

Mr. HALDEMAN. By not going into the prior activities of these people as they related to this area.

Mr. NEDZI. How do you know it is unrelated until you go into it?

Mr. HALDEMAN. Well, we knew it was unrelated, Mr. Chairman. The President knew it was unrelated. That was the reason for the request.

Mr. NEDZI. How did the President know it was unrelated?

Mr. HALDEMAN. As it is indicated here, it was also coordinated with the FBI on this. It was not a thing where the CIA was ordering the

FBI to do something. It was a matter of expressing concern to the FBI in coordinating with them so as not to compromise these other areas.

Mr. NEDZI. How did the President know this was unrelated?

Mr. HALDEMAN. Well, he knew in general what the activities were of the plumbers group, the national security activities, and he knew those had no bearing on looking into activities of the Democratic National Committee at their headquarters.

Mr. NEDZI. How did he know that?

Mr. HALDEMAN. I think by logical assumption. They are two totally different kinds of things.

Mr. NEDZI. Was there a meeting with anybody to your knowledge, where he was given this information?

Mr. HALDEMAN. We are talking about different things, separation in time, as well as separation in assignment here. These people were no longer engaged at the time of the Watergate activity, these people were no longer engaged in the plumbers project, so-called.

Mr. NEDZI. What were they engaged in?

Mr. HALDEMAN. They were working for the Re-Election Committee, apparently. They weren't working for the White House.

Mr. NEDZI. When was that established? When did that transition take place?

Mr. HALDEMAN. I am not sure. I don't know.

Mr. BRAY. We have been asking about Howard Hunt. Helms apparently didn't have a great deal of faith in Howard Hunt. Did you gather that, or have information to that effect?

Mr. HALDEMAN. I didn't, sir, other than just this minor reference that he didn't want this material turned over to Hunt, and again, I have got to suggest that I am not the best source on that whole area.

Mr. BRAY. I understand that, but I was rather interested here that Helms—what does this say, knowing nothing about the Bay of Pigs, is that it?

Mr. HALDEMAN. Not let any of the material regarding the Bay of Pigs or the information on the Bay of Pigs be given to or fall into the possession of Mr. Hunt. He did not want Hunt in that area.

Mr. BRAY. Why was that?

Mr. HALDEMAN. I don't know, sir.

Mr. BRAY. Could it have been—do you know or have an idea, that Howard Hunt was fairly deeply involved in the Bay of Pigs?

Mr. HALDEMAN. It is my understanding that he was, yes.

Mr. BRAY. At that time Howard Hunt was a member of the CIA, is that correct, or wasn't he?

Mr. HALDEMAN. I don't know the precise relationship, but he was working for, as I understand it, was in some way working for the CIA, yes.

Mr. BRAY. He had been a member of the CIA, hadn't he?

Mr. HALDEMAN. I think so. I can't confirm that of my own knowledge, but that is my understanding.

Mr. BRAY. It is my recollection Howard Hunt has been indicted over the Watergate, hasn't he?

Mr. HALDEMAN. Yes, sir.

Mr. BRAY. Were you well acquainted with Howard Hunt?

Mr. HALDEMAN. No, sir, I have never met him, had any conversation with him, or any communication with him. I don't know him at all.

Mr. BRAY. The name of Liddy hasn't been mentioned, but I read a great deal about Liddy, also I will try to refresh my recollection, has he been indicted regarding the Watergate?

Mr. HALDEMAN. Yes, sir.

Mr. BRAY. Do you know him well?

Mr. HALDEMAN. No, sir, I never met him, never had any communication with him, to my knowledge. In his role as counsel to the campaign committee I may have had memoranda from him or something, but they were not anything—I don't know the man as an individual, and have had no relationship with him.

Mr. BRAY. I won't pursue this a great deal, because I realize you are not versed in it, but rather, you have no personal knowledge as to Helms' distrust of Hunt?

Mr. HALDEMAN. No, sir, none.

Mr. BRAY. I am interested in why he was mentioned not to allow Howard Hunt to know anything about the papers of the Bay of Pigs, because it seems as though there is still something, or some activity still involving the Bay of Pigs going on.

Mr. HALDEMAN. I can't really clarify that very much, Mr. Bray, but I think that there probably—or I have the feeling there was.

Mr. BRAY. That is the impression I have.

Mr. HALDEMAN. To that extent I can maybe agree with Director Helm's characterization of my question as incoherent, because I didn't understand what the connection was or what the concern might be, but I raised the question because I was told to.

Mr. BRAY. My question seems to be incoherent, because I can't understand it either.

That is all.

Mr. NEDZI. Mr. Haldeman, who conducted this meeting between Walters, Helms, Ehrlichman and yourself?

Mr. HALDEMAN. It would be hard to say that anyone conducted it. It was an informal meeting in Ehrlichman's office, sitting around a coffee table. I have seen General Walter's memorandum of conversation that he wrote on the meeting, and that would indicate that I did the bulk of the talking. I understand Mr. Helms has also so testified.

That is probably correct, although I am not sure.

Mr. NEDZI. Was anybody else present at this time?

Mr. HALDEMAN. Just the four I named.

Mr. NEDZI. No staff members or secretaries?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. Were any memoranda made of this meeting?

Mr. HALDEMAN. There was none made by me. I am not aware of any memorandum made except that one 4 or 5 days later General Walters decided to make for his own personal file. I should point out, I think it is significant, Mr. Chairman, the fact General Walters did make any memorandum of this meeting—nor did Director Helms apparently, at the time of the meeting—and that General Walters didn't see fit to make a memorandum until whatever it was—I think it was June 28, the date of his memorandum, 5 days later, which followed a number of other events that took place after that meeting.

Mr. NEDZI. When did you first become acquainted with General Walters' memorandum?

Mr. HALDEMAN. At the time—in the very recent past. I am not sure what day, but just in the last few weeks.

Mr. NEDZI. How did this take place?

Mr. HALDEMAN. I am not sure. I don't know where I first became aware of that, or of it. That is true, yes, because there is only one that relates to the meeting I was involved in.

Mr. NEDZI. Were they given to you at your office, or did you go someplace to look at them?

Mr. HALDEMAN. I am not sure, Mr. Chairman. I don't know when I first—I don't recall whether I was given a verbal report of what was raised. I am not sure.

Mr. NEDZI. Are you sure at some time you actually saw the memorandums or copies of them, physically?

Mr. HALDEMAN. Yes. Copies were provided. The White House gave you copies, didn't they, the White House counsel?

Mr. STRICKLER. Yes.

Mr. HALDEMAN. I believe that is right. Copies were provided to my counsel by the White House counsel. We also received copies from the McClellan committee.

Mr. NEDZI. Simultaneously?

Mr. HALDEMAN. I think the one from the White House came first, and then the McClellan committee provided copies also with all of the testimony.

Mr. NEDZI. This is subsequent to your resignation?

Mr. HALDEMAN. Yes; I think it was.

Mr. STRICKLER. I am not sure of that.

Mr. HALDEMAN. OK.

Mr. NEDZI. Did you have counsel before you resigned?

Mr. HALDEMAN. Yes, sir.

I had counsel starting the 17th of April. I resigned on the 30th of April. The effect, or the termination of employment on the 19th of May.

Mr. NEDZI. So the memos were provided you between the 17th and 30th of April?

Mr. STRICKLER. Mr. Congressman, I would think without knowing, as I understand it they were supplied to my senior partner, John Wilson. But my best thought would be that sometime around the middle of this period that has been just described, sometime say around May 1, or somewhere in that area, but I would not know for sure.

If it becomes important, we will be glad to try to run it down for you.

Mr. NEDZI. Do you have a question, Mr. Chairman?

Mr. HÉBERT. Thank you, Mr. Chairman.

Mr. Haldeman, the statement which you just made triggered this concern of mine. You described the President as knowing there was no related situation between the Watergate—between the CIA and the Bay of Pigs operation. You just testified to that.

In other words, what you said was what you believed?

Mr. HALDEMAN. That is correct.

Mr. HÉBERT. In other words, this is a conclusion, this is not a fact?

Mr. HALDEMAN. That is right.

Mr. HÉBERT. This is the area I am not interested in.

Mr. HALDEMAN. OK., I think that is an important point. I can't of my own knowledge testify what the President knew or didn't know. I am stating an assumption, I guess, on my part.

Mr. HÉBERT. I consider that most important, because of the publicity given this whole area, and the continual reference that the President knew or didn't know. When you track it down, you are only the second witness here who had a conversation with the President, Mr. Gray being the previous one.

In tracking down actually what did the President say and what was his specific instructions, we find ourselves in a maze of conclusions, assumptions, and deductions, but there is nothing direct as of now that the President felt the way you just testified.

Mr. HALDEMAN. I appreciate the correction, Mr. Chairman, because you are right.

Mr. HÉBERT. This is one of the most important things on our side, which is concerned with the CIA activity, of course, is the involvement of the President directly.

As I gather from your testimony, because Mr. Dean in a conversation with you—that you brought the subject matter up with the President?

Mr. HALDEMAN. Yes; to the best of my recollection, yes, sir.

Mr. HÉBERT. This is the first time that you talked to the President about the CIA involvement, when Mr. Dean informed you, and you informed the President?

Mr. HALDEMAN. I believe that is right; yes.

Mr. HÉBERT. Then you list five specific things in your statement, which you indicated the President told you to do. This was spontaneous on his part, so you had not discussed it before?

Mr. HALDEMAN. That is correct.

Mr. HÉBERT. This was a routine meeting between you and the President?

Mr. HALDEMAN. That is correct.

Mr. HÉBERT. And out of this routine meeting, the President told you, Mr. Haldeman, ascertain whether there had been any CIA involvement in the Watergate. Did he tell you that?

Mr. HALDEMAN. Well, Mr. Chairman, let me say I laid these out as one, two, three, four, five, in the interest of clarity and to try to be as specific as I can and as clear as I can.

I should characterize again the meeting with the President as being not formal, and of not having codified these matters, nor did he issue a directive that you are to pursue items one through five, but he simply—I can put it in much more—

Mr. HÉBERT. I want to know what he told you.

Mr. HALDEMAN [continuing]. In a much more informal context. To the best of my recollection he did say to me to get these five things done, but he didn't spell them out as five things to get done. The way he would have said it, and the best I can recall as the way he did say it, was when I raised this point, you and John get together with Helms and Walters and find out whether the CIA does in fact have any involvement in the Watergate affair, see whether they have any concern

about the possibility of the Bay of Pigs question, because of some of these people having been in the Bay of Pigs——

Mr. HÉBERT. Let me interrupt there.

Mr. HALDEMAN. Yes, sir.

Mr. HÉBERT. This was in response to what you told him that Dean told you?

Mr. HALDEMAN. Yes.

Mr. HÉBERT. So he did not project the involvement of the CIA, you projected it when you reported your conversation with Dean?

Mr. HALDEMAN. That is correct, that was the triggering point.

Mr. HÉBERT. I want to get the facts, I don't want assumptions.

Mr. HALDEMAN. That was the triggering point, which was that the FBI, from what the President—if you look at the President's mind what he had been told was the FBI is concerned about whether there is some CIA involvement here, or problem with the CIA. That is about all the President was told.

Mr. HÉBERT. By whom?

Mr. HALDEMAN. By me, reporting what Dean had told me.

Mr. HÉBERT. That is all you told the President?

Mr. HALDEMAN. Basically, yes. But I did make the point, the triggering point was FBI concern about CIA.

Mr. HÉBERT. I will get to that point later too, when I have established these items, and I understand the way you have given them, because there is so much confusion on what the President said and what the President wants.

Mr. HALDEMAN. Right.

Mr. HÉBERT. As you well know, I have been exposed to that. I was called and said the President asked me to call you, but he had never heard of it. That is what I want to establish. This goes out as fact in the paper.

Mr. HALDEMAN. That is right.

Mr. HÉBERT. No. 1 and No. 2, to ascertain whether the relation between some of the Watergate participants and the Bay of Pigs was a matter of concern to the CIA. That again is an elaboration of this one general statement?

Mr. HALDEMAN. That is correct.

Mr. HÉBERT. But he did not specifically say it is related to the Bay of Pigs?

Mr. HALDEMAN. Yes, sir; he did.

Mr. HÉBERT. Did you tell him about the Bay of Pigs?

Mr. HALDEMAN. No, sir. The reference to the Bay of Pigs came from the President.

Mr. HÉBERT. Came from the President?

Mr. HALDEMAN. Yes, sir.

Mr. HÉBERT. He said that?

Mr. HALDEMAN. To the best of my recollection. That is the only way I can see that the point would have come up.

Mr. HÉBERT. All right.

The third one, to inform the CIA of an FBI request for guidance regarding some aspects of the Watergate investigation because of the possibility of CIA involvement directly or indirectly. Did this come again from the original general statement?

Mr. HALDEMAN. Yes.

Mr. HÉBERT. The impression I have, and my best recollection—I didn't hear Mr. Helms' testify, but I heard most of them—was that the FBI did not project itself into this at all. It was at the direction of this meeting that you had that the FBI was called and told what to do. They never asked for the guidance.

Mr. HALDEMAN. I don't think that is correct, Mr. Chairman. I think they did ask for the guidance. At least I was told that they had.

Mr. BRAY. By whom, by Dean?

Mr. HALDEMAN. I think Director Gray has so testified that they were concerned about the question of CIA involvement, and had raised the question.

Mr. MELVIN PRICE. Will the chairman yield?

You are referring to the CIA not asking for guidance?

Mr. HÉBERT. No, the FBI hadn't asked for guidance.

Mr. HALDEMAN. I believe they did.

Mr. HÉBERT. As I understand it from the testimony we have, the FBI was going about its business, by this conversation. That is what I want to establish.

Mr. HALDEMAN. This is an extremely important point.

Mr. HÉBERT. I want to get the testimony correct.

Mr. HALDEMAN. I think the record will show the FBI was concerned, and had expressed it. It is my understanding Gray so testified to the McClellan committee.

Mr. HÉBERT. He didn't give us that information.

Mr. BOB WILSON. Mr. Chairman, there was testimony by Mr. Helms that Mr. Gray had called him prior to this meeting.

Mr. HALDEMAN. That is right.

Mr. BOB WILSON. To ask him if there were any CIA involvement, and he told him no.

Mr. HOGAN. That was the 22d of June.

Mr. HÉBERT. That was the day before this meeting?

Mr. HOGAN. Yes, sir.

Mr. HÉBERT. When was he summoned to this meeting?

Mr. BOB WILSON. The 23d.

Mr. HÉBERT. He called Dean the same day?

Mr. HALDEMAN. Yes, sir.

Mr. HÉBERT. He called the same day?

Mr. BOB WILSON. The FBI had called Helms on the 22d and said is there any CIA involvement, and Helms said there was no CIA involvement. Despite that CIA was called.

Mr. HALDEMAN. Gray testified and so did Helms. As I recall in my statement, Gray gave this information to Helms directly.

Mr. HÉBERT. I just want to straighten this record out.

Mr. HALDEMAN. So do I.

Mr. HÉBERT. What I want to know is why they wanted guidance?

Mr. HALDEMAN. Counsel reminds me that after Gray's conversation with Helms, Gray called Dean, according to Gray's testimony—Dean called Gray?

Mr. STRICKLER. I don't know which way.

Mr. HÉBERT. About 25 conversations between Dean and Gray in a matter of hours.

Mr. HALDEMAN. Gray and Dean talked after the Helms/Dean conversation, and Gray expressed his concern about the CIA question.

That concern kept coming up days later, Mr. Chairman, after this meeting.

Mr. HÉBERT. Let's go to the next one, No. 4, to discuss White House concern regarding possible disclosure of non-Watergate related covert CIA operations or other national security activities undertaken previously by some of the Watergate principals. That again is an elaboration of your statement, a statement by the President. Get into the action and find out what was going on. The President did not specifically tell you the way you have written this thing.

Mr. HALDEMAN. Not in these words, but he did specifically tell me to raise the point of the concern of disclosure.

Mr. HÉBERT. No. 5, to request Walters to meet with Acting Director Gray of the FBI to express these concerns and to coordinate with the FBI so that the FBI's area of investigation of the suspects not be expanded into unrelated matters which could lead to disclosure of their earlier national security and CIA activities.

Now, again this is an elaboration.

Mr. HALDEMAN. It is an elaboration, but it doesn't go beyond what the President said to do. In other words, he did specifically say to have Walters meet with Gray and coordinate this.

Mr. HÉBERT. Did you raise any question or any concern or thought in your mind, when he said get hold of Walters and not get hold of Helms, who was the Director? Why go to the No. 2 man instead of the No. 1 man?

Mr. HALDEMAN. That question didn't occur to me, and it still doesn't seem to me to be a point of particular concern. It wasn't a matter of going to Walters, it was a matter of having Walters and Helms meet with us, and then to have Walters meet with Gray.

Mr. HÉBERT. You said the President requested Walters?

Mr. HALDEMAN. That is right.

Mr. HÉBERT. He didn't say Helms and Walters, he said Walters?

Mr. HALDEMAN. That is correct, to have Walters meet with Gray, but this was done in a meeting with Helms present.

Mr. HÉBERT. He didn't say not Helms, he said see Walters?

Mr. HALDEMAN. No, sir; he said see Walters and Helms.

Mr. HÉBERT. You don't say that.

Mr. HALDEMAN. Yes, sir; I did.

Mr. HÉBERT. You don't say Walters and Helms in your statement.

Mr. HALDEMAN. Only Walters to see Gray, but I was told to see Helms and Walters.

Mr. HÉBERT. Why didn't you put that in your statement?

Mr. HALDEMAN. I did, sir.

Mr. BOB WILSON. Look at the second paragraph.

Mr. HALDEMAN. The second paragraph, Mr. Chairman, says I was requested by the President to meet with Helms and Walters.

Mr. HÉBERT. All right.

Mr. BOB WILSON. On the first page, the second paragraph.

Mr. HÉBERT. When was this statement prepared?

Mr. HALDEMAN. Last week in preparation for the meeting with the McClellan committee.

Mr. HÉBERT. It was prepared after you had seen the testimony of the McClellan committee?

Mr. HALDEMAN. The final statement was; yes. But I had written out when this matter first came out, I wrote out what my best recollection was of all the factors in it.

Mr. MELVIN PRICE. Would you yield?

Mr. HÉBERT. Yes.

Mr. MELVIN PRICE. I was puzzled the same way you are by the statement. The President suggested to meet with Ehrlichman, Helms, and Walters. Now to the best of my recollection the purpose of this meeting was fivefold, and it would indicate you established the purpose in the meeting with the President?

Mr. HALDEMAN. That is correct.

Mr. MELVIN PRICE. Then your No. 5 says, to request Walters to meet with the Acting Director Gray.

Mr. HALDEMAN. That is one of the four.

Mr. MELVIN PRICE. I think this is what causes the problem.

Mr. HALDEMAN. That is one of the points to be carried out with the meeting with Helms and Walters.

Mr. MELVIN PRICE. Did the President name Walters?

Mr. HALDEMAN. Yes, sir.

Mr. MELVIN PRICE. Only Walters?

Mr. HALDEMAN. Yes, sir.

Mr. HÉBERT. That is what I am trying to establish. He did not name Helms?

Mr. HALDEMAN. In connection with meeting with Mr. Gray, that is correct.

Mr. MELVIN PRICE. That is right. That is what the chairman was trying to straighten out.

Mr. HÉBERT. You would be the messenger boy; that is my statement, not yours.

Mr. HALDEMAN. OK.

Mr. HÉBERT. The principal thing, Mr. Haldeman, I am interested in, to clear the record as far as this committee is concerned, is to establish what the President said and what the President didn't say, and who said, and when somebody said the President said.

Mr. HALDEMAN. I understand the point.

Mr. HÉBERT. You understand what I am driving at?

Mr. HALDEMAN. I certainly do.

Mr. HÉBERT. Good.

Mr. NEDZI. Mr. Haldeman, what did you say to General Walters? What were your instructions to him?

Mr. HALDEMAN. I laid them out here as best I can.

Mr. NEDZI. Well, it is not very clear. You say that Walters agreed to meet with Gray as requested, but the request isn't quite clear.

Mr. HALDEMAN. It is point 5, to request him to meet with Gray to express these concerns that had been raised, the concerns of point 4, primarily, and to coordinate with the FBI so that their investigation of the suspects not be expanded into unrelated matters, non-Watergate related matters, in other words, that would lead to disclosure of their earlier activities.

Mr. NEDZI. What was your response to Mr. Helms when he indicated to you that the CIA was not involved in the Watergate affair?

Mr. HALDEMAN. No response. There was no response required. That ended that point.

Mr. NEDZI. You mean there was no need for General Walters to convey that to Mr. Gray, was there?

Mr. HALDEMAN. No; because Director Helms told us he had already conveyed that to Gray.

Mr. NEDZI. So point 1 was taken care of in your conversation between Helms and yourself?

Mr. HALDEMAN. I would say so; yes. We were to ascertain that. We did. That settled it.

Mr. NEDZI. Point 2, to ascertain whether the relation between some of the Watergate participants and the Bay of Pigs was a matter of concern to the CIA. Helms dismissed that one also?

Mr. HALDEMAN. That is correct.

Mr. NEDZI. To inform the CIA of an FBI request for guidance requiring some aspects of the Watergate investigation because of the possibility of CIA involvement, direct or indirect. Was there any requirement for that request in light of Helms' statement to you that the CIA was not involved, and they were not concerned?

Mr. HALDEMAN. That would be correct as far as it would relate to CIA involvement in the Watergate itself; yes.

Mr. NEDZI. So we are getting to point 4 then?

Mr. HALDEMAN. Right.

Mr. NEDZI. To discuss White House concern regarding possible disclosures of non-Watergate related covert CIA operations or other national security activities that had been undertaken previously by some of the Watergate principals.

What reason did you have to be concerned about that in light of Helms' assurances?

Mr. HALDEMAN. I think there was still reason to be concerned about that. Helms' reassurances didn't relate to the disclosure of non-Watergate-related covert CIA operations, or to non-Watergate-related other national security activities. Helms' assurances were, as I recall it at the meeting, only two, and they were specific. One, that the CIA was not involved in the Watergate affair itself. That was a specific question to which he specifically answered.

The other, that he was not concerned about the Bay of Pigs relationship with the Watergate—some of the Watergate individuals. He made those two assurances. He did not make—that I can recall—any assurance that the CIA had no concern about any other activities of these people.

Mr. NEDZI. Did he indicate at all he had a concern?

Mr. HALDEMAN. No, but I raised the question of concern, I think. It was raised in the meeting and he did not say, well, there isn't any concern on that.

If I could take a step ahead, I can go to the point that had he felt no concern, or had there been no reason for meeting of Walters and Gray, it was perfectly possible either Helms or Walters could have said there is no reason for us to meet with Gray. This has all been taken care of. There isn't anything to talk about, or it would not be a good idea for us to meet with them, or we don't want to, or we think it is improper, or we would like to delay a meeting. No such objection or even reservation was raised by either Walters or Helms.

Mr. NEDZI. Did you give them the opportunity to make that kind of observation?

Mr. HALDEMAN. Why certainly. These are men that both John and I knew. We were not close friends of either of them, but we had a good working relationship with both General Walters and Director Helms, and this was not a formal meeting; it was a completely informal discussion. There was an opportunity to say anything anybody wanted to say.

Mr. NEDZI. What was said beyond what you have indicated was Mr. Helms' statement that CIA was not involved?

Mr. HALDEMAN. I don't recall that anything was. I have tried to set forth here what I do recall was covered.

Mr. NEDZI. So that your order to General Walters at that time was only to discuss White House concern regarding possible disclosures, et cetera, of covert CIA operations or other national security activities?

Mr. HALDEMAN. And to coordinate with the FBI regarding the question of their investigation not leading to the discovery or uncovering or compromising of these other earlier activities.

If I could, also, Mr. Chairman, you said my order to Gray—

Mr. NEDZI. Walters.

Mr. HALDEMAN. I mean to Walters, excuse me.

I think it is important to characterize that as I have here as a request to Walters, rather than as an order. I don't mean to be nitpicking, and I totally understand the concept that if someone in an executive branch department is requested by the President to do something, that is, in effect, an order, but the characterization becomes important here in the nature of the questioning that has been raised, and the characterization there was a request, not an order.

It was not something where I said to General Walters to come to attention and to salute and march out and carry this out as precisely directed. It was a discussion of these points, and a raising of these points, and a request, as a result of this concern that was expressed, that he go and meet with Gray and coordinate this thing.

I am not arguing with General Walters or Director Helms saying they were ordered to do it, in the sense I can see how they would interpret that as an order.

Mr. NEDZI. If you can see that, then it was an order.

Mr. HALDEMAN. No, sir; because the way it was put was as a request, which is a little different. The tone in which something like this is put is, I think, important. If I had said, "Walters, the President says for you to get over to the FBI immediately and do this," I would say he would not have a great deal of opportunity, although he could still say, I think that is a mistake. But this was not put that way. This was put in the way—and I believe, incidentally, I probably did say, as he originally reported and then corrected and then rereported and corrected again—I think I probably did say the President wants you to do this, or the President has asked that you do this.

Mr. NEDZI. Or it was the President's wish?

Mr. HALDEMAN. That was his terminology. I don't say it is the President's wish. I don't think I said that. I must say, as Chairman Hébert has pointed out, and I made this point at the Senate Committee, and if I may, I would like to make it here.

General Walters, in his testimony to the Senate Committee said, and I quote, that "Haldeman generally prefaces his conversations by saying 'It is the President's wish,'" and I would like simply to say and

have your record as the Senate record also shows, that that is not true. I do not generally preface my conversations by saying it is the President's wish, and General Walters has absolutely no basis for knowing how I preface my conversations because according to his only testimony, the only conversation he had with me was the one on June 23.

I do preface conversations where I am transmitting to someone where the President has told me to transmit something to them. I say, "The President has told me to tell you this," or he asked you to do this, or whatever the fact may be. But if that, in fact, is not the case, then I don't say it. I understand perfectly, Mr. Chairman, the point you are making about the habit of people quoting the President when, in fact, the President doesn't know anything about what they are saying. I am simply saying as a personal point, I do not do that. I have never done that, and I will challenge anybody ever to point out any statement I have ever made attributed to the President that was not, in fact, attributable to the President.

Mr. BOB WILSON. Mr. Chairman, I think we are nitpicking a little bit here. I think the main point of variance that we should explore, that should be clarified, are the statements by both Mr. Helms and General Walters to the effect that the main point of General Walters wanting to see the Attorney General was to say that the Mexican operations of CIA would be compromised. You tell us that there was no reference to the Mexican operations of CIA. This is the big point, because you were brought into the conversation or into the testimony here by General Walters to the effect that you said, in effect, "I don't care what the CIA says, you tell Pat Gray that the White House thinks that the Mexican CIA covert operations will be compromised."

Now, is this a fact? Did you tell General Walters that the Mexican CIA operations, regardless of what Mr. Helms had said or anybody had said, but just tell Mr. Gray that the White House felt that the covert operations would be compromised?

Mr. HALDEMAN. As I said before, Mr. Wilson, I don't believe that I did. That is the first time I have heard that characterization from General Walters, and as I said, I have read his testimony before the McClellan committee. That is not the way he put it to them, as I recall.

Mr. SLATINSHEK. That concept is also corroborated by Mr. Helms. Let me read into the record some testimony he has given this committee in respect to this, the impressions of both Mr. Helms and Mr. Walters, as to their direction.

Ambassador HELMS. At one time, Mr. Chairman, here, and I would appreciate it if you would go right along with me and be a little bit patient with me, because I don't want to mislead anybody. I don't want to overdrive this. I don't want to underdrive it. I want to try and explain it.

You will recall what General Walters testified to as to what he had been asked by Mr. Haldeman to do, which was to go and see Acting Director Gray of the FBI, and speak to him about halting the investigation into Mexico because it might run into certain CIA operations. You recall this?

Mr. NEDZI. Yes.

Ambassador HELMS. When we left Mr. Haldeman's office and were on our way out of the White House, I said to General Walters that I thought that was going too far, he shouldn't go that far in speaking to Mr. Gray. He should only go so far as to say that if Mr. Gray in his investigations ran into any CIA operations in Mexico, he should remember about the delimitation agreement between the FBI and the CIA, and advise the CIA that he had done so.

This is an agreement that the Bureau and the Agency have had for years, if you run into each other's sources, operations or assets, you report to the other fellow you have done so.

So you see this would support the impression if you will, that Mr. Walters had and Mr. Helms apparently also had the impression that you had directed him to tell Mr. Gray that they would of course compromise the Mexican operation if they proceeded any further. I want to get that into the record.

Mr. HALDEMAN. In response to that, I have to say that I can only testify as to what I can recall, and I simply don't recall saying that.

Now, in a minor correction, Mr. Wilson, I am not saying that did not happen. I want it clear that the Mexican question was raised.

Mr. BOB WILSON. The Mexican question, of course, does go further than you. Did the President—and you have said not, and I would like to have you repeat it—that the President did not raise the questions of the Mexican operation in his instructions for you to get together with Helms and Walters?

Mr. HALDEMAN. I don't recall that he did. I would also point out that the testimony on hindsight sometimes is different than testimony at the time, and that even on the 28th of June when General Walters wrote his memorandum of this conversation, as I recall, and I don't have it before me, but as I recall he said that "I was to go and talk to Gray about the Mexican affair, et cetera." So even then, 5 days later when the Mexican thing I think had become a public matter, he still characterized it as that and other things, and that would fit much more into my recollection of how this took place.

Now, John Ehrlichman's recollection is somewhat different than mine. You will find that when you hear from John. I can't challenge the recollection of other individuals. I can only testify as to what mine is, to the best of my ability.

Mine is that on a broad basis, the Mexican thing may have come up. I simply don't recall it. But that my approach to this, and my recollection of it was a broader request than simply to not explore the Mexican question, but rather was the request that their investigation not so expand itself into the past activities of these individuals as to compromise their earlier and unrelated activities at the CIA and/or their earlier and unrelated activities in the national security area.

Mr. NEDZI. Wouldn't it be reasonable to leave that judgment to Helms and Walters as opposed to ordering that kind of intercession with the FBI?

Mr. HALDEMAN. In effect, I think that judgment could have been exercised by Helms and Walters simply by raising at the meeting some disagreement with the request.

Mr. NEDZI. Which leads to my next question. You spoke about the tone of the conversation.

Mr. HALDEMAN. Yes.

Mr. NEDZI. What was the tone of it? Did Walters and Helms speak up, in your judgment, candidly? Was there any protestation of any kind?

Mr. HALDEMAN. Not protestation. And I would say they did speak up candidly. Walters not to any great extent, as I recall, but Helms making the point that—the two points that we have already discussed

that there was no CIA involvement in the Watergate, and there was no concern on his part with the Bay of Pigs question.

Mr. NEDZI. Were there any questions directed as to how this can affect and compromise the CIA—these people who had past associations with the Agency?

Mr. HALDEMAN. No. the purpose was not for us to determine how or what the problem was, it was to raise these questions, to ascertain the two points, one and two.

Mr. NEDZI. Wouldn't it be reasonable to have them raised within the CIA first, prior to requesting that Walters go to see Gray that afternoon? Was that your request?

Mr. HALDEMAN. I am not sure it was to go that afternoon. It was to go to see him. I don't recall any time limit being put on it.

He did in fact go see him on that afternoon, according to the report.

Mr. NEDZI. Which report are you talking about?

Mr. HALDEMAN. According to his memorandum of conversations and according to the testimony that has been given.

Mr. NEDZI. In talking with him, or in deciding upon how the contact was going to be made, was there any reference to the time?

Mr. HALDEMAN. There may have been. I don't recall any.

Mr. NEDZI. Mr. Haldeman, in the June 28 memorandum, No. 2 for the committee's benefit, General Walters stated this:

Haldeman said that the bugging affair at the Democratic National Committee Headquarters at the Watergate Apartments had made a lot of noise and the Democrats were trying to maximize it.

Did you say that?

Mr. HALDEMAN. Not that I recall. I have tried to lay out my recollection of that meeting and the flavor of it as best I can.

Mr. NEDZI. Is that so uncharacteristic it is unlikely that you said it, the substance of it?

Mr. HALDEMAN. I don't know.

Mr. NEDZI. You know what your manner of speaking is and what you talk about, don't you?

Mr. HALDEMAN. Yes. I have no quarrel with it. But I certainly can't confirm that I said it.

Mr. NEDZI [reading]:

Haldeman said that the whole affair was getting embarrassing. It was the President's wish Walters call on Acting Director Patrick Gray and suggest to him that since the five suspects had been arrested that this should be sufficient and that it was not advantageous to have the inquiry pushed, especially in Mexico—

And so forth.

Mr. HALDEMAN. Again, Mr. Chairman, I characterize it the way I put it, rather than that way. And I would have some objection to the putting the affair as getting embarrassing in the context of the President's request that he talk with the FBI. I don't think that that position is an accurate recollection.

Mr. NEDZI. Did you make reference to the fact that the five men involved were under arrest?

Mr. HALDEMAN. I don't recall that, but I may have.

I made reference to the Watergate—the participants in the Watergate. And that would be at that point the five men under arrest plus

the name of Howard Hunt, as I recall it Howard Hunt had not been arrested or brought into it by that point except by implication, his name appeared in the files or records of those people, or something.

Mr. NEDZI. Is General Walters misrepresenting the facts when he stated to the committee in his testimony of May 21, "I believe that I was told to use those exact words by Mr. Haldeman, sir, since the men are now under arrest it is best not to continue this investigation in Mexico"—not anywhere else—in Mexico.

Mr. HALDEMAN. Again, I have to say, Mr. Chairman, I don't recall the Mexico thing specifically.

Mr. NEDZI. You could have said that?

Mr. HALDEMAN. I don't recall saying it. I think I have to leave it at that.

Mr. HÉBERT. Did the President ever tell you according to this memorandum that was prepared he was afraid of being embarrassed or was being embarrassed?

Mr. HALDEMAN. No.

Mr. HÉBERT. He did not do it?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. Mr. Haldeman, in your statement you said that "I do not believe there was any direct connection between this meeting, the meeting of June 23, and General Walters' subsequent meetings with John Dean."

Mr. HALDEMAN. Yes, sir.

Mr. NEDZI. Isn't it your understanding that all of these subsequent meetings with John Dean were with reference to FBI's concern—concern about FBI-CIA relationships?

Mr. HALDEMAN. The only understanding I have about those meetings is the reading of the Walters memorandum on them and the testimony given to the Senate committee.

Mr. NEDZI. You don't think there is any connection between those meetings and the meeting on June 23?

Mr. HALDEMAN. I don't think there is any connection in the sense that the meeting of June 23 set up those meetings. I was not aware of the subsequent meeting.

Mr. NEDZI. Were you aware of how Mr. Dean became the action officer on this matter?

Mr. HALDEMAN. I described that, I think, earlier this morning in answer to your question.

Mr. NEDZI. Did you delegate any responsibilities to Mr. Ehrlichman or Mr. Dean or anyone else with respect to this matter?

Mr. HALDEMAN. No, sir. I was not in a position to delegate responsibilities in this matter. I didn't have any to delegate.

Mr. NEDZI. Did you get any reports from anyone on what had transpired between Mr. Gray and General Walters?

Mr. HALDEMAN. I don't believe so.

Mr. NEDZI. After this meeting you just washed your hands of the whole affair, in fact?

Mr. HALDEMAN. Yes, sir. I carried out what I was instructed to do, and that was my general practice. I moved through an awful lot of matters every day, and this was not one of enormous importance at that point in time, and in that frame of reference with the things I was dealing with at that time it was not my practice in this kind of

thing to followup on it, or to stay with it, unless I was asked by the President at some later point to reopen it. My general practice was to move things out. I completed every day's business every day, to the best of my ability, because I knew what was going to come the next day.

Mr. NEDZI. You were a better man than I am.

Mr. HALDEMAN. It never quite worked, but I tried.

Mr. NEDZI. Did you ever have any conversations with Dean on this matter, outside of the one on June 22 or June 23 that you already described?

Mr. HALDEMAN. I don't recall any, as I said, any discussions with Dean on this specific matter. I did have discussions with Dean on matters relating to the Watergate over a period of time, but not, as I recall, in the area of the CIA and FBI question.

Mr. NEDZI. What were the substances of those other discussions?

Mr. HALDEMAN. Ongoing developments in the Watergate case as the months went on. He kept me generally posted for the purpose of keeping the President generally posted on the progress of the Watergate case.

Mr. NEDZI. How frequently did you meet with him?

Mr. HALDEMAN. In that area, during—

Mr. NEDZI. Just generally speaking.

Mr. HALDEMAN. Generally, maybe once a week.

Mr. NEDZI. No more frequently than that?

Mr. HALDEMAN. No. Except I am not sure, of course, but at some point in time, and it may have been then, I had a regular twice a week staff meeting, if they were going on at that time, I don't think they were—but if they were, Dean sat in those meetings; so he was in twice a week in the staff meeting. I didn't have a regular weekly meeting with him. You asked for frequency and that would be a general characterization of frequency. Probably, also, a couple of phone calls during the week.

Mr. NEDZI. How would you generally characterize it?

Mr. HALDEMAN. That would cover all kinds of matters, Mr. Chairman, not simply this area. Dean was not solely involved in the Watergate. We were involved in a lot of other things. There were a number of meetings on matters relating to the President's will and disposition of Presidential papers and that kind of thing which were matters we were spending a lot of time on during that same time period. So there were lots of things, and that is one example. There are a lot of other things.

Mr. NEDZI. How would you generally characterize your relationship with Mr. Dean?

Mr. HALDEMAN. As a good working relationship; that is, up to the point of when things sort of changed in the Watergate matter. It was not a close relationship. There was no personal relationship at all. But I think, or I felt we had a good working relationship.

Mr. NEDZI. Who did you consider responsible for following up on orders of Helms or Walters, or your request to Helms and Walters?

Mr. HALDEMAN. General Walters.

Mr. NEDZI. General Walters. Was he obliged to report to anyone?

Mr. HALDEMAN. No, sir. Not in my opinion. This was a request for

him to do something. The assumption would be he was doing it, unless he said otherwise.

Mr. NEDZI. Did you discuss this matter with Mr. Ehrlichman?

Mr. HALDEMAN. Not that I recall; no. You mean after the meeting?

Mr. NEDZI. Yes.

Mr. HALDEMAN. No; I don't recall any followup discussion with him on that.

Mr. NEDZI. You never had any discussion with Mr. Dean?

Mr. HALDEMAN. Not that I recall; no.

Mr. NEDZI. Did Dean—

Mr. HALDEMAN. Not in this specific area.

Mr. NEDZI. Dean never reported to you on General Walters' meetings with him?

Mr. HALDEMAN. No, sir. I don't believe he did.

Mr. NEDZI. Did you ever get information about those meetings from any other source?

Mr. HALDEMAN. No. The only other source would be General Walters and I had no communication that I can recall with General Walters at all following the June 23 meeting.

Mr. SLATINSHEK. I have the impression, and correct me if I am mistaken, that at the meeting of the 23d Mr. Ehrlichman somehow assumed the responsibilities for the matter that occurred at that meeting, and was, in a large sense, delegated, if you will, not formally, but for want of a better way of expressing it, the responsibility for continuing Walters' contact with Gray. Then, of course, he subsequently was contacted by Walters as to whether or not Dean was privy or to be privy to this matter, and Ehrlichman gave him a clean bill of health, and so Walters contacted Dean from then on with respect to many of these matters. Am I correct in making that assumption?

Mr. HALDEMAN. I have seen the same information I think you are referring to. I have no firsthand knowledge that that is the case. I can neither confirm nor deny it.

Mr. SLATINSHEK. Dean contacted General Walters, and General Walters had some reluctance apparently to cut him in on what was going on, and so he called Ehrlichman to find out whether Dean was OK, and he was told that Dean was privy to the whole exercise and consequently Walters could feel free to continue working with him. So, therefore, I can't help but assume Ehrlichman somehow or another, maybe silently, assumed responsibility for the discussion that occurred at that meeting on the 23d, and pursued it in your stead.

Is that a fair assumption?

Mr. HALDEMAN. I don't know. It is not an assumption that I can confirm, because I don't have any firsthand knowledge of what other steps were taken.

Mr. SLATINSHEK. Pursuing the question Mr. Nedzi raised, the President thought it significant enough, so the President suggested to you to have Walters go to Mr. Gray regarding the CIA. He didn't say the Mexican operation.

I am sure that as Chief of Staff, you would be concerned that the President's wishes would be observed, and you would not simply dismiss it out of hand. You would assume, therefore—and I don't know whether this is right or not—that your lieutenant, Mr. Ehrlichman, would pursue the matter, and he did. Am I oversimplifying it?

Mr. HALDEMAN. Don't refer to Mr. Ehrlichman when he comes in here as "my lieutenant," or you will have a hostile witness.

No; I think I would have to say that when we get into a microscopic examination of something, as we are doing on this now, we tend to put it in a frame of reference and at a level of importance that is not reflective of the situation that existed at the time the events took place. I am sure that is a statement that doesn't need to be made to any of you.

This was not at the time of such overriding importance that I would drop everything and set up an administrative procedure for follow-up and a system of checks and delegations, and so forth.

It was a matter where the President said, "Get together with these guys, tell them or ask them about these questions that we are raising, and ask Walters to meet with Gray and coordinate with him on working this out."

Once that is done, and in the pace of events with which I was dealing in those days, once that is done, I drop the matter unless someone else raises it.

Let me say, this thing of trying to get my day's work done every day, I was not seeking additional assignments. I was seeking to move anything. The way I worked it was essential that I moved everything that came to me out and to other people as quickly as possible.

Mr. SLATINSHEK. This is the point, to other people?

Mr. HALDEMAN. Yes, but not necessarily to other people in the White House. That was another objective always, which was for the White House to move responsibility and assignments out of the White House, because we have, compared to the rest of the Government, I will make a little pitch for them, we had a very small staff, and it was impossible to deal with all the matters that were presented to the White House. So there was a conscious effort, and a continuing effort, to move things to where they could be handled and let them be handled there.

I would see this in that context that this was a matter that could be handled by the FBI and the CIA, and it was moved to that level to be handled.

I don't feel in my mind that I either consciously or subconsciously delegated follow-up responsibility to Mr. Ehrlichman or to anyone else. I feel that I carried out the instructions that I had been given that morning by the President—or that afternoon—at least in this area had succeeded in getting that day's work done that day.

Mr. SLATINSHEK. We will have to pursue that further with Mr. Ehrlichman obviously.

Mr. HALDEMAN. Yes, sir.

Mr. SLATINSHEK. Because he did inject himself into the operation at that point?

Mr. HALDEMAN. Yes, and he testified to some other followup points he had with the President of immediate concern.

Mr. NEDZI. Can you help us and give us your version, or your reason, or a reason for Mr. Dean taking the lead in this regard and calling Mr. Walters into his office?

Mr. HALDEMAN. I can't give you reasons for what I have read in, I guess, in Walters' memorandums, or what I have read of what Dean is reported to have raised with him, no.

I can say that I don't find it surprising that Dean would have taken followup steps, because, as I indicated earlier, Dean, was the liaison with the FBI and the investigating agencies on the Watergate matter.

Mr. NEDZI. Who advised Dean of your meeting with Helms and Walters?

Mr. HALDEMAN. I don't know. I am not sure. I may have, Ehrlichman may have, or Gray may have.

Mr. BRAY. There have been a lot of questions gone into here and pursued to some extent.

I like to put the matter as near as I can in the proper perspective.

The President asked you to convey certain information or requests or suggestions, whatever you want to call them, to the FBI and the CIA. Is that correct?

Mr. HALDEMAN. Well, yes, in essence that is correct. It was really to convey these to the CIA, and then to request that Mr. Walters work on this matter with the FBI. I was not requested by the President to convey anything directly to the FBI, nor did I.

Mr. BRAY. But you were asked to do it for the CIA?

Mr. HALDEMAN. Yes, sir.

Mr. BRAY. You reported back to the President what you had done?

Mr. HALDEMAN. I am sure I did, although I don't recall the specific report. I am sure at some point I said, "We had the meeting with Helms and Gray and it was taken care of."

Mr. BRAY. Did you feel at the time your matter, conveying the message to the President, your job, as far as that is concerned, was finished?

Mr. HALDEMAN. Yes, sir.

Mr. BRAY. You had no special surveillance of either the FBI or CIA?

Mr. HALDEMAN. That is correct.

Mr. BRAY. Did you have any capacity or power of surveillance to supervise those organizations?

Mr. HALDEMAN. No, sir.

Mr. BRAY. You have told us all that you know?

Mr. HALDEMAN. I believe I have, to the best of my ability.

Mr. BRAY. You believe you have?

Mr. HALDEMAN. Yes, sir.

Mr. BRAY. Thank you.

Mr. NEDZI. Mr. Haldeman, do you know James McCord?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. You have never had anything to do with him?

Mr. HALDEMAN. Not to my knowledge.

Mr. NEDZI. How about Howard Hunt?

Mr. HALDEMAN. No.

Mr. NEDZI. No dealings with Howard Hunt?

Mr. HALDEMAN. No.

Mr. NEDZI. Did you know David Young?

Mr. HALDEMAN. Yes, sir.

Mr. NEDZI. Did you have any dealings with him?

Mr. HALDEMAN. Not directly. I knew him. I knew him as an employee in the National Security Council. I don't believe I had any direct dealings with him.

Mr. NEDZI. Did you have any conversations with him relating to the CIA?

Mr. HALDEMAN. No, none that I recall.

Mr. NEDZI. Were you aware, back in 1971, of a White House request to General Cushman for assistance to Mr. Hunt?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. When did you first find out about that request?

Mr. HALDEMAN. I am not sure. In just this recent period, when all of this became public, or was becoming public.

Mr. NEDZI. Mr. Ehrlichman never apprised you of this information?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. Did he ever talk to you about dealing with General Cushman, Cushman's comments about Howard Hunt?

Mr. HALDEMAN. Not in that point in time at all. Only in the recent time, as this has become a public matter.

Mr. NEDZI. For the record will you define a little more precisely the recent time? I am not talking about the precise date.

Mr. HALDEMAN. The last couple of months.

Mr. NEDZI. Did you have any contacts with Mr. Schlesinger?

Mr. HALDEMAN. Yes, I have had contacts with him.

Mr. NEDZI. Will you give us the approximate time when those contacts took place and the substance of them?

Mr. HALDEMAN. You want to go back prior to his association with CIA?

Mr. NEDZI. No, subsequent to his association.

Mr. HALDEMAN. Can you tell me when he became Director, generally?

I met with him once or twice, I believe, since he became Director, and these were discussions regarding personnel—general personnel plans, not specific people, but general planning as to personnel.

Mr. NEDZI. Within the Agency?

Mr. HALDEMAN. Within the Agency, yes.

And to go over some thoughts he had on how he was—it was very general—how he was going to structure his approach to the operation of the Agency, and so on.

The reason for his getting into this way simply—these were short meetings—or maybe there was only one—

Mr. NEDZI. At whose behest?

Mr. HALDEMAN. At his. These were to kind of give me a quick progress report, I believe, to pass on to the President, and I think this was in conjunction with the request to see the President. He was reviewing some of the things he wanted to go over with the President, or was getting ready to go over with the President when he met with him.

The reason that he would do that is that I had sat in the meeting that he had with the President, which I believe was at Camp David, in which the President told him that he would like to have him take on this new assignment as Director of the CIA.

Mr. NEDZI. How long before his appointment was this made?

Mr. HALDEMAN. I am not sure, Mr. Chairman.

Mr. NEDZI. I won't hold you to precise dates here.

Mr. HALDEMAN. It would have been, I assume, in December or January. I am not sure. It was after the President had talked with

Mr. Helms about his taking on a new assignment. I am not sure what the date was.

If I could expand.

Mr. NEDZI. Yes.

Mr. HALDEMAN. Any conversation I have had with Mr. Schlesinger, there was no discussion of these matters or anything relating to them.

Mr. NEDZI. What were the circumstances behind Mr. Helms' assignment?

Mr. HALDEMAN. May I confer with counsel?

Mr. NEDZI. Yes.

Mr. HALDEMAN. Mr. Chairman, the reason for my conference with counsel is, my request for guidance from him as to what my position is in response to that question with regard to the question of executive privilege.

As you know, the President has specifically waived executive privilege in any testimony relating to criminal acts or discussions involving criminal acts, and I testified very fully on matters that related to direct communication with the President and other things that would normally or could normally be considered to be covered by executive privilege under my understanding of the President's directive and his desire that all of us cooperate as fully as we can with these committees.

The specific question you have now put to me, it would seem to me that the question of executive privilege arises in the sense of your asking a question on a personnel action, of which I have no personal knowledge or involvement other than my participation in conversation with or action taken at the instruction of the President, which in no way relates to any criminal action or any discussion of criminal action.

With that caveat, I would like to be as responsive as I can to your question, to say that in general the circumstances involved in the change of assignment of Mr. Helms were in the context of a sweeping and well-publicized program of changing assignments of very substantial changes within the executive branch, within the White House itself, the Cabinet departments, and the agencies of the executive branch, and that it was felt in the process of the changes that were being made, a change in the direction of the position of Director of the CIA was also a desirable change to be made, and it was recognized, as I recall, that Director Helms was reaching—shortly would be reaching—is it 60 that is the customary retirement at the CIA—I believe it is—and he was approaching his 60th birthday some time in the early part of this year, I believe, and that in the process of making these other changes the President did have an assignment for Mr. Helms that he wanted to ask him to take, and that this was an appropriate time to make this change, and it was made on this basis.

I can categorically say, Mr. Chairman, that the change was in no way related to any of the matters under discussion here, either directly or indirectly or otherwise, as far as I had any knowledge of it.

Mr. NEDZI. Mr. Haldeman, after your June 23d meeting with Helms and Walters, did you report the results of your meeting to the President?

Mr. HALDEMAN. I have no specific recollection of doing so, but I have to assume that I probably did in a sense of just the meeting had been held, and the points had been covered with them.

Mr. NEDZI. Do you recall any response on his part?

Mr. HALDEMAN. No.

Mr. NEDZI. Were you personally aware of any conflict which involved the CIA and the FBI in Mexico?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. Did you have any contact with Mr. Colby of the CIA at any time?

Mr. HALDEMAN. I don't believe so, no.

Mr. NEDZI. How about Mr. Houston?

Mr. HALDEMAN. What Mr. Houston?

Mr. NEDZI. General Counsel for the CIA, Mr. Larry Houston?

Mr. HALDEMAN. No, sir; I don't believe I know him.

Mr. NEDZI. Did you have any contact with Mr. Gray?

Mr. HALDEMAN. I have had some minimal contacts with Mr. Gray. None in connection with this matter at all, except one phone call in which he called me subsequent to an appearance he had had before a Senate committee at which Senator Kennedy had specifically directed him to call me and put to me the question: Had I been given the FBI reports on the Watergate suspects, or in conjunction with the Watergate investigation? My answer to him was no. And that was the limit of the conversation. I had no other communications with him on this matter.

Mr. NEDZI. Did you have any discussions relating to this matter with Mr. Kleindienst?

Mr. HALDEMAN. No; I don't believe so. I don't think so.

Mr. NEDZI. Any other Justice Department officials?

Mr. HALDEMAN. No, sir.

I have testified on this matter before the Grand Jury, if that comes under the purview of your question.

Mr. NEDZI. Yes.

Mr. HALDEMAN. I was asked directly.

Mr. NEDZI. This was comparatively recently?

Mr. HALDEMAN. Yes, sir. I was asked directly about this when I was before the Grand Jury by Mr. Silbert, and I gave them at that time a very limited description because I was under restrictions of both the executive privilege and national security.

Mr. NEDZI. Did you have any basis for concern that FBI probing would in fact compromise CIA assets at the time of this meeting with Mr. Helms and General Walters?

Mr. HALDEMAN. Could I ask to have the question read?

[Question read.]

Mr. HALDEMAN. Not to my personal knowledge, no.

As I said earlier, I don't even know what you mean by CIA assets.

Mr. NEDZI. CIA assets involving covert projects or matters which they considered to be in the national security interest to keep concealed might be uncovered.

Mr. HALDEMAN. No, sir.

Mr. NEDZI. You had no personal knowledge of this kind?

Mr. HALDEMAN. No.

Mr. NEDZI. You were merely conveying what the President had asked you to convey?

Mr. HALDEMAN. That is correct.

Mr. NEDZI. Mr. Haldeman, in the course of your White House tenure, did you have occasion to deal with the CIA in any other capacity apart from this particular thing?

Mr. HALDEMAN. No; I don't believe I did.

Mr. NEDZI. Were any requests for assistance of any kind ever conveyed to the Agency, to your knowledge?

Mr. HALDEMAN. I am just trying to recall anything else. I can speak to one point much earlier. 1969—when John Ehrlichman and I did meet with General Cushman to ask a question, really, or raise a request for CIA assistance in a matter of absolutely no bearing on anything connected with this at all.

Mr. NEDZI. I understand. Our interest is broader than just in this matter before us.

Mr. HALDEMAN. General Cushman, as I recall it, said to us at that time that the request we are making was not appropriate that this was not an area of appropriate activity for the CIA, and was not something they were in a position to—not a request they would be in a position to carry out, and we said, fine, and it was dropped.

Mr. NEDZI. What was the request?

Mr. HALDEMAN. I will go to executive privilege on that, I think, on the basis it was a request—personal request made by the President that we raised with him that had no relation to any criminal acts or anything that is covered by the waiver of privilege.

Mr. NEDZI. There were no other instances of contact with the Agency?

Mr. HALDEMAN. I don't recall any other instances that I had a contact with them; no, sir.

Mr. NEDZI. Were there any procedures set up for contact with the Agency in the administration?

Mr. HALDEMAN. The normal ongoing procedure for contact with the CIA is through the National Security Council, and the National Security Council staff. I assume that was the operating procedure in the great bulk of the cases.

Mr. NEDZI. Did you have occasion to resort to that procedure at any time?

Mr. HALDEMAN. I don't recall any occasion; no, sir.

Mr. NEDZI. Who in the National Security Council staff would be contacted by the White House when there was a matter of interest or concern at the Agency level?

Mr. HALDEMAN. I am not really sure. I would contact Henry Kissinger.

Mr. NEDZI. Did you have any knowledge of Mr. Young's contact with the Agency with reference to the Ellsberg profile?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. Do you have any questions?

Mr. SLATINSHEK. Just one. I have a general question, Mr. Haldeman, not dissimilar to that which Mr. Nedzi was pursuing about the CIA.

Have you had any contacts with requests originating with the White House directed to any of the intelligence agencies which come under our cognizance—I am speaking of the DIA and the NSA, as well, or to the military in general—which could be considered in the nature of a domestic internal security function which could not ordinarily be performed by those agencies, and which, of course, is of concern to this subcommittee.

I have reference to the fact that the law with respect to CIA specifically excludes it from any domestic internal security functions, and yet it seemed to be at least peripherally involved in one in this case.

So, let me ask you that general question as to whether or not, to your knowledge, along the line of your response to Mr. Nedzi on CIA, have you had any connection with DIA or NSA which would follow a similar line?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. Haldeeman, what is the White House Investigation Unit?

Mr. HALDEMAN. I don't know.

Mr. HOGAN. The President made reference to that in his May 22 statement.

Mr. HALDEMAN. Is that the so-called plumbers'—

Mr. HOGAN. I am asking you the question. He said in general that he didn't want exposed either an unrelated covert operation of the CIA or the activities of the White House Investigations Unit.

Mr. HALDEMAN. OK. That would refer to what is popularly known as the "plumbers' unit."

Mr. HOGAN. Plumbers' unit. I gather, then, as of the time the President is talking, and we are talking about the 22d and 23d of June 1972.

Mr. HALDEMAN. Right.

Mr. HOGAN. That morning. That the unit was still in existence.

Mr. HALDEMAN. I don't know that it was.

Mr. HOGAN. Well, did you read the 22d of May statement of the President?

Mr. HALDEMAN. Yes. I haven't read it recently.

Mr. HOGAN. Well, he is talking about a conversation he had with you, and he said he wanted to insure the the activities of the White House Investigations Unit were not exposed.

Mr. HALDEMAN. Yes, but I don't believe he was talking about current activities. I believe it was past activities. I am not sure, Mr. Hogan, whether the unit was still in operation or not.

Mr. HOGAN. You don't know, then?

Mr. HALDEMAN. No.

Mr. HOGAN. Who was in the unit? Who are the prominent characters in the unit?

Mr. HALDEMAN. As far as I know, it was Bud Krogh and David Young. Before they left the White House, Hunt and Liddy.

Mr. HOGAN. McCord?

Mr. HALDEMAN. No, I don't believe so.

Mr. HOGAN. Well, now, is this the same unit to your knowledge that was involved in the Watergate break-in?

Mr. HALDEMAN. No, sir.

Mr. HOGAN. Weren't some of them involved—Hunt?

Mr. HALDEMAN. Some of the same people—two of the same people were involved, yes. But they were not, as I understand it, part of the White House Investigations Unit.

Mr. HOGAN. Really, you don't know if it was in existence at the time of your conversation with the President on the 23d of June?

Mr. HALDEMAN. I don't know if the unit was in existence. I know that Hunt and Liddy were not a part of that unit at that time.

Mr. HOGAN. They were not a part of it?

Mr. HALDEMAN. No, sir. They had left the White House at some considerably earlier point—I am not sure when.

Mr. HOGAN. I see. In fact, how did you first learn of the Watergate situation?

Mr. HALDEMAN. It is almost unbelievable; I am always asked that, and I don't know. I learned about it somehow, I guess—I was in Key Biscayne on the weekend of June 17, and I learned about it down there, and I don't know by what means. I don't know whether the press office called me and it moved on the wire, or whether somebody here called me, or what.

Mr. HOGAN. I think for the record, Mr. Haldeman, I would like to clear up one thing about your conversation with these gentlemen on the morning or afternoon of June 23. I think you are far too modest about what your conversation with them conveyed.

They told us in their testimony in their conversation with you, this was an order that was relayed to them, because of your status in the White House staff, that it came from on high. Wouldn't you agree this was probably a reasonable interpretation of the conversation?

Mr. HALDEMAN. Yes. As I said—if I may, as I said earlier to this committee this morning, my recollection is that I did say it was the President's request that they do this.

General Walters' original memorandum so indicated. Then Director Helms changed his mind so he testified otherwise, and then he changed his mind back and said he wasn't sure whether I had or not. So there is obviously honest failure of recollection on the part of somebody there.

But it would be my impression, given my understanding of this meeting, that I probably did say that the President has asked that you go over and talk with Gray and do this. And that would be—I would also point out—consistent with what the President has said he instructed me to do.

Mr. HOGAN. Why was it necessary to put together a special investigations unit? Doesn't the executive department have available to it almost inexhaustible investigative and covert activity sort of resources?

Mr. HALDEMAN. I am not a very good source for you on the reasons or the setup of the special investigations unit. I wasn't involved in it, and was not, except on a very general basis, aware of it.

I can say, however, and others can give much more specific and eloquent testimony on this subject, that there were a lot of other resources but they weren't working. There were problems.

Mr. HOGAN. Were they untrustworthy?

Mr. HALDEMAN. I am not so sure. I don't know if at that time there were leaks from the FBI but there were subsequently leaks from the FBI which were a matter of great concern.

The leak of the Pentagon Papers. The compromise of other information. Minutes of Washington special action group meetings. And a number of other things of that sort created a very strong degree of concern, and I personally feel a very valid degree of concern as to the protection of matters that required protection.

Mr. HOGAN. What was your impression of the unrelated covert operations of the CIA that you were talking to these people about on the 22d or 23d?

Mr. HALDEMAN. I had no impression. As I said, it was simply the question of whether this would get into any others. I knew only that these people, some of these people were former—at least I assumed former agents or operatives or however they identified of the CIA.

Mr. HOGAN. I see. But the President had some ideas about this, didn't he? At least he conveyed that in his May 22d statement?

Mr. HALDEMAN. He knew the same thing, that these people had a background of CIA activity—covert CIA activity.

Mr. HOGAN. I won't pursue it any further.

Thank you, Mr. Chairman.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. No questions.

Mr. NEDZI. What did John Ehrlichman say at this meeting of the 23d?

Mr. HALDEMAN. I have no recollection of what his participation was. He may have covered some of these points and I may have covered the others. I am not sure.

Mr. NEDZI. Was there anything said by you along the lines: It has been decided here you will go to Patrick Gray—speaking to General Walters?

Mr. HALDEMAN. I don't recall those words. But I indicated one of the purposes of the meeting was to request Walters to go to talk with Gray.

Mr. NEDZI. One thing puzzles me, Mr. Haldeman. Since Mr. Gray was an appointee, and an individual with whom you were acquainted and an individual who is directly involved in this whole problem, why wasn't he invited to this meeting of the 23d?

Mr. HALDEMAN. I don't know. I don't see any particular significance in the fact he wasn't. I can speculate a little.

In the first place, the meeting was set up because the President, as I have indicated, said you and John get together with Helms and Walters. So that is what we did.

I don't recall any question being raised as to whether Gray should or should not sit in. It did not come up. Why wouldn't it have automatically come up? Possibly because some of the questions that were to be explored here related to matters beyond, potentially at least, Gray's knowledge or involvement. I can see in hindsight that there could be a reason for Gray not to be there. You are asking me—

Mr. NEDZI. What would it be?

Mr. HALDEMAN. You are asking about CIA involvement, and the Bay of Pigs question, and other covert activities of the CIA, that there would be no need to raise in the presence of the FBI.

The purpose of this meeting was to get the FBI and the CIA together.

Mr. NEDZI. Why didn't you invite them all?

Mr. HALDEMAN. I don't know. The FBI had raised the question with the White House, and the White House acts sort of as a clearinghouse, things come in there where there are questions involving several agencies. I don't think it was unusual, abnormal, or surprising.

Mr. NEDZI. Did you have any knowledge of any alleged effort relating to James McCord blaming the CIA for the Watergate break-in?

Mr. HALDEMAN. No, sir.

Mr. NEDZI. None at all?

Mr. HALDEMAN. No.

Mr. NEDZI. Did you have any organizational role, or relationship at all with the so-called White House plumbers?

Mr. HALDEMAN. No.

Mr. NEDZI. I think I asked this before, but I am not certain, so let me ask you this: Did you convey to the President the assurances of Mr. Helms that the CIA was not involved in the Watergate?

Mr. HALDEMAN. He did ask for a report. I am sure I did, although I don't have a specific recollection of doing so.

Mr. NEDZI. President Nixon has stated immediately following the Watergate break-in he ordered an investigation thereof.

Who was given responsibility for that investigation?

Mr. HALDEMAN. I think that he—well, John Dean was, in the sense that that was—I don't think it was done as a formal act of giving him responsibility. I think, as I indicated earlier, the assumption, it was the logical place for such an investigation to be conducted.

And John Dean did in fact sit in all the investigations by the FBI of the White House people and was the focal point or the coordinating point for the question of any White House involvement.

Mr. NEDZI. There was no formal order of investigation?

Mr. HALDEMAN. No formal order, no.

Mr. NEDZI. Was there an informal order?

Mr. HALDEMAN. Simply in the sense of asking the question, what happened? And was anybody here involved? What are the facts? That is as far as the White House was concerned. There was also the overall investigation of the Justice Department, the FBI, normally agencies that would engage in that.

Mr. NEDZI. Yes, but was there a specific Presidential order for that investigation being conducted?

Mr. HALDEMAN. Not a written, formal order; no.

Mr. NEDZI. General order?

Mr. HALDEMAN. I would imagine that there was discussion that would be considered verbal orders; yes. None that I am directly aware of.

Mr. NEDZI. At the time all of this was going on there were some theories propounded as to who might be responsible for the break-in.

Were you aware of any of those theories?

Mr. HALDEMAN. Yes. I would have to be. They were in the public press. Everybody around had three or four different theories, because it was kind of a puzzling thing at that point in time—and still is.

Mr. NEDZI. What were the theories which were discussed within your scope of responsibilities?

Mr. HALDEMAN. I wouldn't say that any theories were discussed within my scope of responsibilities.

The theory side of the thing was whatever awareness I had as to theories was as a private citizen. I had no responsibility for development of or exploration of theories of the Watergate, and didn't engage in it.

Mr. NEDZI. What was your own speculation at this time as to who was responsible?

Mr. HALDEMAN. I don't know. I am not sure.

Mr. NEDZI. What did you limit the possibilities to?

Mr. HALDEMAN. I don't think I, in my own mind, limited the possibilities. I think I was genuinely puzzled, and I still am, as to precisely

who did what. As things developed and conflicting testimony or statements developed, it becomes harder to sort out.

Mr. NEDZI. Is there any question in your mind about CIA involvement?

Mr. HALDEMAN. No real question, no; I don't believe so. I have no serious thoughts that the CIA was involved. But I must say at this point today I find myself still very puzzled as to what precisely did happen and why.

Mr. NEDZI. You have a lot of company.

Mr. HALDEMAN. I understand that.

Mr. NEDZI. Is there any thought in your mind that the Cubans might have been responsible for this?

Mr. HALDEMAN. I don't know.

Mr. NEDZI. Today, I mean.

Mr. HALDEMAN. I don't know what you mean by "the Cubans" involved in it. People with Cuban backgrounds?

Mr. NEDZI. At the time one of the theories set forth was that the Cuban activists were endeavoring to secure information about Democratic Party positions on the Cuban matters.

Mr. HALDEMAN. That may have been a motivation on the part of some of the people involved, I don't know. I don't have a personal theory that that would be a moving factor that caused this project to be undertaken; no.

Again, I am not——

Mr. NEDZI. What do you see as a motivation for this project being undertaken?

Mr. HALDEMAN. I find it very hard to figure out what a motive would be.

Mr. NEDZI. Mr. Bray?

Mr. BRAY. No questions.

Mr. HALDEMAN. My counsel gives me a suggestion which I endorse, which is "stupidity."

Mr. SLATINSHEK. Earlier, Mr. Haldeman, I referred to Mr. Ehrlichman as "your lieutenant," and you pointed out he would take odds with me on that. Frankly, I am confused in my own mind as to the responsibilities that you shared at the White House and Mr. Ehrlichman shared, and Mr. Dean.

Can you briefly give us an idea of what your responsibilities were? I realize they were manifold.

Mr. HALDEMAN. Yes.

Mr. SLATINSHEK. What I am trying to do is establish for the record whether or not it would be reasonable to assume that you would be on top of the problems of the kind we are discussing today, or whether it would be Mr. Ehrlichman, or Mr. Dean.

So with that background, could you give us a better feel of how your responsibilities were shared in this regard?

Mr. HALDEMAN. Yes.

My responsibility was not in any way a line responsibility except as to the administration, overseeing of the administration of the President's office.

My overriding responsibility was of the purest staff sense to the President in that I did not maintain an independent schedule. I did not have appointments. I didn't deal on matters on my own initiative.

I worked in direct conjunction with the President. I was physically wherever he was almost all the time. I traveled wherever he traveled. I spent a very large amount of time with the President. And I had the general responsibility for what came into him and what came out from him, both in person and on paper.

As I indicated earlier, I worked on a day-to-day basis, and moved on the basis of clearing up each day's work rather than being a director of or follower-up of ongoing projects.

By contrast Mr. Ehrlichman, in the period we are talking about, was, as you know, the Assistant to the President for Domestic Affairs, and had the responsibility for the development of planning for domestic policy, for a wide range of relationships with the departments and agencies, ongoing implementation of programs, and carrying out the President's interest in the domestic area, as by contrast Dr. Kissinger had in the national security area.

Mr. SLATINSHEK. Therefore, if I may interrupt at this point, it would be reasonable to assume that Mr. Ehrlichman would, under that broad responsibility, have this problem that we are discussing today?

Mr. HALDEMAN. No; not necessarily. This is a problem, or an area that doesn't fall neatly into a specific line of responsibility.

John Dean, as counsel to the President, as I earlier indicated, had the responsibility on an ongoing basis for the relationship between the White House and the FBI to handle security clearances for White House personnel, and reviewed security clearances for Presidential appointments and that kind of thing with the FBI. He received reports from the Bureau on demonstrations and potential problems that would affect the White House.

The same kind of thing with the other parts of the Justice Department. His duties weren't limited to that, but those were areas in which he was primarily involved and responsible.

Ehrlichman, as we all did, we came in with the understanding we were assistants to the President, we were all going to be generals, there weren't going to be specific assignments, there would be a pool of assistants that would move into areas as needed. That didn't last very long. We had to define areas, and we did. John Ehrlichman at the outset was counsel to the President. He moved at some point, I am not sure when, to this other role as assistant to domestic affairs and John Dean became counsel. As sort of counsel emeritus, Ehrlichman had much more of a direct substantive relationship with John Dean, for instance, than I did. I am not a lawyer, and Ehrlichman is. When Dean, having been Ehrlichman's successor, naturally turned to Ehrlichman for guidance and counsel on matters that he was dealing with. Ehrlichman continued to sit in on a number of things, such as the matter of the President's will in the development of these things I referred to earlier. Things like that weren't really domestic policy matters, but John sat in on them. We all cross-ruffed to a certain extent. We sat in on things that didn't necessarily directly relate to our ongoing areas of responsibility.

I sat in on most national security matters as far as the President was concerned. Not on NSC meetings, I mean on foreign policy matters and all that, as well as most major domestic things.

There aren't clearcut lines.

Mr. SLATINSHEK. All right. Then would it be fair to say the problem we are discussing today would fall under the mantle of Ehrlichman

and Dean? Certainly those two people in the White House would be the principal parties directly interested or concerned with this concern in the CIA's contact with the FBI, concern there would be no compromise of covert operations in Mexico?

Mr. HALDEMAN. I think that is correct.

Mr. SLATINSHEK. Did Dean or Ehrlichman report to you on the progress being made in this area, subsequent to that June 23d meeting?

Mr. HALDEMAN. I don't believe so; no.

Mr. SLATINSHEK. I don't have anything further, Mr. Chairman.

Mr. NEDZI. Mr. Haldeman, in General Walters' July 6 memorandum covering his meeting with Mr. Gray on July 6, he said the following: "He"—meaning Gray—"said that he fully understood this. He himself had told Ehrlichman and Haldeman he could not possibly suppress the investigation of this matter."

Did Mr. Gray ever contact you and tell you that he could not possibly suppress the investigation?

Mr. HALDEMAN. No, sir. And Mr. Gray has so testified.

Mr. BRAY. I didn't understand that.

Mr. HALDEMAN. My answer was "No"; Mr. Gray did not communicate this to me, and I added that Mr. Gray has so testified that he did not. Mr. Gray has testified to the Senate Committee that he had no communication with me on this subject, except the phone call in the followup to Senator Kennedy's request.

Mr. NEDZI. Can you speculate as to how this kind of inaccuracy was in Mr. Walters' memo, in General Walters' memo?

Mr. HALDEMAN. Yes; I can.

I think that there is a dangerous tendency in this whole discussion and investigation to categorize people and lump people together and to miss or cross-ruff names. Because Ehrlichman and I worked closely together and are associated in people's minds closely, and both have names ending in "man," that we are frequently confused with each other, and frequently lumped together as a category rather than regarded as individuals.

I have to say General Walters in some of these things, and in some of this testimony, has seemed to follow that tendency.

This is a matter of very deep personal concern to me, this confusion thing, and the tendency to sloppiness in what is being said here and some of what is being done.

Mr. NEDZI. Do you consider that to be a good quality in the second-ranking intelligence officer of the Central Intelligence Agency?

Mr. HALDEMAN. "Sloppiness"? I wouldn't consider that to be a good quality in anyone. I am not accusing General Walters of general sloppiness. I am simply raising the point that this, in my view, was an unfortunate assertion. And if I may, on a point of personal privilege, I would like to cite another one that maybe is inappropriate here, because it relates to testimony given to the Senate committee which I had the opportunity to read. But in that testimony, and it is right to this subject, General Walters said—he was asked what his impression was when Dean referred to the point that this leads to important people, or this might lead to important people—General Walters said "I have to confess Haldeman and Ehrlichman's name crossed my mind." He said, "Now, at this point in time, it is easy to believe that they, Haldeman and Ehrlichman, had done something wrong and they were

afraid the President was going to find out, and that they were trying to coverup."

That, to me, is not only disturbing but is shocking and gets to a point where I rise to substantial personal wrath because this Watergate case some day is going to be run out and the judicial process of this country is going to determine who in fact was guilty and who in fact wasn't.

I have total confidence that will take place. When that takes place, it will be totally clear to General Walters and to the American people that Haldeman didn't do anything wrong in the Watergate matter, that Haldeman didn't know about the Watergate matter, and Haldeman didn't have anything to do with it, and that his allegation—and by saying only "Haldeman," I don't eliminate Ehrlichman, I am only speaking for myself on a personal point. But when that is proven, the people who have bandied this kind of stuff around I hope are going to be deeply ashamed of themselves, and I think somehow we need some protection from this kind of stuff in the process of the truth trying to be known, and I deeply fear that we are not being given that protection, and that there is a monumental tragedy being built here that goes way beyond the boundaries of the case itself.

Mr. NEDZI. Mr. Haldeman, you mentioned that you examined the transcript of General Walters' testimony.

Were there any conditions under which these transcripts were provided to you for you to review?

Mr. HALDEMAN. I don't believe so. They were provided to counsel by committee counsel.

Mr. STRICKLER. We understood the transcripts provided were not to be disclosed, and we have not disclosed same.

They have been in my possession or the possession of my office without interruption since we received them.

Mr. NEDZI. Which transcripts were provided to you?

Mr. STRICKLER. We saw the transcripts, as I recall, of Director Helms, FBI Director Gray, General Cushman, and General Walters.

We also saw a piece, an excerpt, from the grand jury testimony of Mr. H. L. Hunt.

In addition to that, we had the testimony of the psychiatrist from CIA. There were about four of those, I believe.

Mr. NEDZI. Do you know whether there was any testimony before the Senate subcommittee which was not provided to you?

Mr. STRICKLER. I believe there was, but I don't know.

Mr. NEDZI. One final—

Mr. STRICKLER. I know there were matters before the committee that were not provided to us. What form it took, I am not sure.

Mr. NEDZI. One final point.

Were you at all involved, Mr. Haldeman, in the preparation of the Houston papers, or what have been referred to as the Dean papers, domestic surveillance plan?

Mr. HALDEMAN. I was not involved in the actual preparation of the papers. I was aware of the project. I knew this was being done, and I believe that—

Mr. NEDZI. What was the project, as you understood it?

Mr. HALDEMAN. It was an effort—my knowledge is peripheral, and I am not going to be a good source on this, but it was—

Mr. NEDZI. I just want you to say what you understood it to be.

Mr. HALDEMAN. I understand that. It was in response to the problem of lack of adequate intelligence on the domestic side of activities of people who threatened the domestic security, and a concern that there was an interrelationship in at least some instances between these threats to domestic security and threats to national security, and this concern led to a meeting that the President held of the heads of the security agencies, the FBI, the CIA, DIA, and the NSA—the last two are military, one a Navy officer and one an Army officer, I guess.

Those people met with the President and he expressed his concern, his concern of the lack of coordination between these agencies, and the project, the Houston project was set up as a result of that to develop some recommendations for the programs in activity coordination and so forth that would deal with this concern. A task force was set up in some way of representatives of each of these agencies—maybe it was the heads of each of them, I am not sure—with Tom Houston, who was on the White House staff, as the sort of Staff Project Officer from the White House side on this.

They were told to prepare their recommendations and submit them to the President. They did put together a recommendation, and I assume that is the document that has been released. I haven't read the New York Times today, so I am not sure what the papers are that they have, but it was a recommendation concurred in by all the agency heads. Director Hoover, I guess, was chairman of this task force, and I think he signed the recommendation that came in, but footnoted his transmittal of the recommendations with either a series of specific dissensions from some of the recommendations or a blanket dissension, I am not sure which. But in spite of his reservations, the overall recommendation of the task force was approved. That has been specified in the President's address, the dates and all are specified in there, I think. This project was approved. Then, because of the reservations of the FBI Director and his reluctance to participate in implementation which was supposed to have been worked out, I guess—I can only go by what the President's statement says—the project was then turned off shortly afterward.

I figure in this I think in that Houston was transmitting his recommendations to the President back and forth through me.

I did sit in that initial meeting that the President had with the agency heads. I was not involved in the preparation of their report. And I am not familiar with the specific details of it.

Mr. NEDZI. Can you be a little more specific about why the project was rescinded after it had been ordered to go in effect?

Mr. HALDEMAN. No.

Mr. NEDZI. Did Mr. Hoover express any further reservations than those indicated in the document itself?

Mr. HALDEMAN. I don't think so. But I think as a practical matter the approval of the document wasn't sufficient to override the reservations that Hoover had expressed, and there then became practical problems in implementation.

Mr. NEDZI. Who drew attention to that fact?

Mr. HALDEMAN. I am not sure. I am not sure that I have any knowledge of what happened after the thing was once approved, other than the general knowledge it had then been turned off.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman. Just a couple questions.

Mr. HALDEMAN, who did Egil Krogh report to on the staff?

Mr. HALDEMAN. John Ehrlichman.

Mr. HOGAN. He worked for him directly and under him?

Mr. HALDEMAN. Yes, sir.

Mr. HOGAN. I see. I am curious as to the reason why you had the psychiatric papers from CIA. Was there some connection between you and the Ellsberg profile?

Mr. HALDEMAN. I didn't have any psychiatric papers.

Mr. HOGAN. Counsel mentioned them.

Mr. STRICKLER. I was referring to the transcripts of the psychiatrists which was their testimony before the McClellan subcommittee.

Mr. HOGAN. Was there some connection between Mr. Haldeman and the profiles that were raised in that testimony?

Mr. HALDEMAN. None whatsoever. The reason the transcripts were sent to Mr. Strickler is that he also represents Mr. Ehrlichman.

Mr. HOGAN. I see. I just wanted to get that cleared up.

One more question, Mr. Chairman.

In connection with your responsibilities in the White House, weren't you commonly called the Chief of Staff?

Mr. HALDEMAN. Yes.

Mr. HOGAN. Why was that?

Mr. HALDEMAN. I am not sure. I think it was probably a carryover from the campaign period when—again I don't know why—I had an operating title of Chief of Staff for Mr. Nixon.

That was my title in the 1968 campaign before we came to the White House.

Mr. HOGAN. So in fact you were not Chief of Staff?

Mr. HALDEMAN. There is no such formal designation. My proper title was Assistant to the President.

Mr. HOGAN. I see.

Did you have any knowledge at the time or the planning of or the immediate results of the Ellsberg break-in out in California?

Mr. HALDEMAN. No.

Mr. NEDZI. Did you make any recommendations with respect to these Houston papers?

Mr. HALDEMAN. I am not sure what you mean, Mr. Chairman.

Mr. NEDZI. Well, in terms of endorsing them or determining some of the objections voiced were valid and they should be rescinded?

Mr. HALDEMAN. I don't believe I did, no.

Mr. NEDZI. You were not an active participant in the development of this plan?

Mr. HALDEMAN. I don't think so. I have no recollection of having any role in the substance of them at all.

Mr. NEDZI. Well, Mr. Haldeman, we want to thank you very much for your spending this time with us. I hope it hasn't been too much of an ordeal.

The committee will stand recessed, subject to the call of the Chair.

[Whereupon, at 12:53 p.m., the subcommittee recessed, subject to the call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Wednesday, June 13, 1973.

The subcommittee met, pursuant to adjournment, at 10:39 a.m., in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order.

This morning we are continuing our inquiry into CIA involvement in the Watergate/Ellsberg matter, and we have as our witness Mr. John Ehrlichman, former White House staff member, and Mr. Frank Strickler, his counsel.

Mr. Ehrlichman, would you rise and be sworn, please?

Do you swear that the testimony you are about to give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. EHRLICHMAN. I do.

Mr. NEDZI. Mr. Ehrlichman, if you have a statement, we will be pleased to have you present it to us, after which questions will be directed to you.

Mr. EHRLICHMAN. Thank you, Mr. Chairman. This statement is a modification of the statement which I made to the Senate subcommittee on the same subject. It is in two parts. The first relates to the Howard Hunt episode, the second relating to the meeting with General Walters and Director Helms in the White House after the Watergate incident.

With the committee's permission, I would like to read it. I would be happy to have you interrupt me if you wish to do so. I would suggest that perhaps we could stop at the end of the first section and you could then take up the questions with regard to the Hunt aspect to the extent that you wished, and then we could go on and talk about the 1972 meeting, which is quite a separate set of circumstances.

Mr. NEDZI. It is separate, but why don't you read the entire statement, Mr. Ehrlichman?

**STATEMENT OF JOHN D. EHRLICHMAN, FORMER WHITE HOUSE
STAFF MEMBER; ACCOMPANIED BY FRANK STRICKLER,
COUNSEL**

Mr. EHRLICHMAN. All right, sir.

Mr. Chairman, I am grateful for your invitation to appear before you today to testify to the facts concerning the Central Intelligence Agency's alleged involvement in the *Ellsberg* case, and alleged involvement in the break-in at the Democratic Party headquarters.

I have read part of the transcript of testimony of other witnesses who have appeared before the Senate subcommittee. From that testimony and information available to me, I have prepared a chronology

of some material events which is attached to this statement, and is the last two pages, Mr. Chairman.

THE CIA AND THE WHITE HOUSE, 1971-73

Questions have been raised concerning the propriety of the relationship between the White House and the CIA during the years 1971-73.

It is my hope that this statement will add a few facts toward answering some of these questions. It will also ask a few more questions, the answers to which can only be given by others.

I am ready and willing to provide any information I have to the Senate Appropriations Subcommittee and any other proper body.

In general summary, I believe the White House has been scrupulous in observing the statutory limitations on CIA activities and support.

There are two episodes which seem to require a detailed review in view of public statements calling White House actions into question. The first is the Central Intelligence Agency's support of Howard Hunt in 1971. The second is the CIA's relationship to the Watergate break-in and subsequent events in 1972.

1971—THE CIA AND HOWARD HUNT

Among the questions still to be asked are: How did Howard Hunt secure aid from the CIA? What aid did he secure? How and why was aid cut off, and was the cutoff timely? What relationship was there between CIA aid, its cutoff, and the burglary of a Dr. Fielding's office in Beverly Hills, Calif., in September 1971?

HOW DID HUNT SECURE CIA AID?

I received a phone call from Gen. Robert Cushman, Deputy Director of the CIA, in late August 1971—he says it was August 27—saying that Hunt was receiving aid from the Agency, which was becoming potentially awkward. I asked him whether Hunt was acting for the Agency or the White House. He said the White House. I asked him what his assignment was from the White House. General Cushman said he did not know.

In response to his request, I told the general I would take responsibility for the Agency terminating its assistance to Hunt and if there were any squawks or kickbacks from anyone in the White House, to simply refer them to me.

In 1969, in connection with a very different case, I had had occasion to discuss the statutory limitations of CIA activity with General Cushman in some detail. He had clearly spelled out the limits at that time and explained the CIA's continuous concern that it not go beyond statutory bounds.

It is somewhat ironic that General Cushman's testimony to the Senate subcommittee makes much of his "long-time relationship" with me [Tr. 170] and the fact that he took my requests as equivalent to absolute mandate in view of my White House position [Tr. 172].

In point of fact, although I think I was introduced to the general once prior to 1968, and saw him to say hello at White House social functions a couple of times, this conversation in 1969 was the first time we had ever seriously spoken to one another.

And, of course, on this occasion, he turned down my request for assistance.

On the other hand, and I might say parenthetically, Mr. Chairman, this is a paragraph I have added since appearing at the Senate subcommittee because this article has just appeared. The Washington Star and a Daily News of June 3, 1973—p. B2, "E. Howard Hunt" by Ted Szulc—states:

What is not generally known, however, is that General Cushman and Hunt had known each other for well over 16 years and that they once shared an office when the Marine office was assigned to the CIA * * * the old relationship may have played a role in Cushman's initial receptivity.

The receptivity, of course, refers to the general's granting Hunt virtual carte blanche at the Agency.

I might say parenthetically, Mr. Chairman, at the time of my testimony before the Senate subcommittee I was not aware of that previous relationship between General Cushman and Mr. Hunt, and it was not testified to so far as I am aware before the Senate subcommittee.

The next time I can recall talking to General Cushman was in August 1971, when he called to ask that CIA aid to Hunt be cut off. I was entirely in sympathy with his request to cut off aid to Hunt based on his conclusion that Hunt's requests had become excessive. I did not even question him for additional details; I simply accepted his conclusion.

I also recall wondering at the time how Hunt had obtained help from the CIA, in the first place. It occurred to me that if anyone later complained to me about this cutoff, I would probably learn how Hunt got started there.

No one ever did complain.

At no time during the August 1971 conversation did the general imply, suggest or state that I had initiated or sponsored Hunt's assistance from the CIA. Rather, the general spoke as though he were turning to me for help out of a situation created by others.

I might say again parenthetically, Mr. Chairman, in testimony before the Senate subcommittee it appears that the reason General Cushman called me was that Director Helms expressly told him that I was the one that he was to call to cut off aid to Hunt.

GENERAL CUSHMAN'S 1973 STATEMENTS

A year and 4 months later, in December 1972, John Dean advised me that the Assistant U.S. Attorney, Mr. Silbert, needed information concerning CIA help to Howard Hunt. I told Mr. Dean of my August 1971 conversation with General Cushman. In a meeting with Director Helms, Mr. Colby, and Mr. Dean, it was suggested I talk with the general to be sure of my facts.

On December 16, 1972 I phoned General Cushman. He verified my recollection of the August 27 phone call, that is, the cut-off phone call, and stated that he believed I had called him prior to his July 22, 1971 meeting with Hunt to set it up. He stated, however, that he was actually uncertain who had called him in July, or the date of the call, which he believed was right after the Fourth of July.

I reported this conversation to John Dean who requested I secure a memorandum from the general regarding his recollection of the facts.

On January 5 or 6, I phoned General Cushman and said:

John Dean, who is the President's counsel, has suggested that I ask you for a memorandum or a letter which confirms your uncertainty with regard to the first phone call you received and your recollection of our conversation on the second phone call. The thing has advanced to the point where the U.S. Attorney here in the District is asking John questions about this and he would like to be able to show him some rather specific evidence of your recollection. So when you're back at the office if you wouldn't mind just sending me a short memo I'd be very grateful to you.

The general sent me a memo dated January 8, 1973, classified "secret." Avoiding any secrets, it may surely be said that the memo establishes July 22, 1971 as the date the general met with Hunt, sets the time of the first phone call during a period from "about 2 weeks to about 2 days prior to his visit"—thus about July 7 to July 20—and the probable identity of the caller as * * * "either Mr. Ehrlichman, Mr. Colson, or perhaps Mr. Dean—I simply cannot recall at this late date just which one it was * * *."

I immediately called the general back to protest the inclusion of my name on the list. He conceded that his listing of the three names was pure guesswork on his part and offered to revise the memorandum.

Another "secret" memorandum dated January 10 then arrived from the general, naming no names at all, instead saying:

I cannot recall at this late date who phoned the call, but was someone with whom I was acquainted, as opposed to a stranger.

I might say parenthetically, Mr. Chairman, I turned both of these memorandums over to John Dean to be transmitted to the U.S. Attorney so he would have both versions of the general's recollection at that time for whatever use he wished to make of it.

Mr. NEDZI. When was this?

Mr. EHRLICHMAN. This was contemporaneous—as a matter of fact I turned the first memorandum over as soon as I got it, which would have been January 8, I believe, then I turned the second one over as soon as I got it, which would have been shortly after the 10th.

According to Acting Director Colby at pages 6–7 of the transcript, General Cushman conferred with the CIA about these details at about the time he wrote these memorandums, presumably to be certain of his facts.

Former Director Schlesinger told this subcommittee that the Agency necessarily relied on the general's memory to establish the origin of the request for aid to Hunt [Tr. 6].

PROBABILITIES AND POSSIBILITIES

The general now reports to this Senate subcommittee that he is sure that the caller was me, and he has sworn to his belief. But he mentioned his memoranda to the U.S. Attorney to the Senate subcommittee only with the briefest passing comment [Tr. 183–184].

General Cushman is a fine officer and public servant who would not knowingly mislead anyone. Of this I am certain. That is not to say,

however, that he, or I or both of us might not be honestly mistaken in our distant recollections of this matter.

Mr. Chairman, this is a matter which I have found most troubling, and I mean that most sincerely. I would like to tell this committee flatly, one way or the other, either that General Cushman is absolutely right or absolutely wrong in saying now that I called him on July 7, 1971.

I can say flatly that I do not have even the faintest recollection of having done so. I can say with assurance that any call to the CIA is the kind of call that I usually have little or no difficulty remembering.

When asked about the call 6 months ago I could not recollect having ever made such a call.

When the general called me in August 1971, only 50 days after July 7, I asked him how Hunt had secured aid from the CIA and what he was doing. I had no recollection of knowing such facts even then.

But when a distinguished military man of the general's repute states flatly before the Senate committee and this committee, I presume, and under oath, that it was I who called him, the best I can say to help the committee is that I do not recall doing so, and the particular circumstances of the matter do not argue that I did.

I do recall, for example, the phone conversations in which I transmitted a request for CIA aid in 1969. General Cushman said the request would probably exceed the limits of the 1947 Act and so it was immediately withdrawn.

I do recall the August 1971 and December 1972 conversations with the general. And those in January 1973. But I do not recall phoning to ask for help for Mr. Hunt in July 1972.

Director Helms and Mr. Colby came to see me in December 1972, as I have said. At that time they suggested that I might have initiated the aid to Hunt. I told them then that I did not recall doing so. Apparently the CIA memorandum of that meeting reflects my reaction as "genuinely perplexed" [Tr. 11].

If the call came in the period July 8 to 19, as the general believed in January of this year when he sent his memoranda, I would have necessarily been calling from San Clemente. The general says the call came "over a regular telephone" [Tr. 157]. Virtually every single call made to Washington from San Clemente goes through the White House switchboard and any call from me would have come to the general on his White House phone.

Here we get into the area of possibility. Possibly his White House phone wasn't working, or the call was made before I left for California or the switchboard operator elected to dial direct to the CIA rather than use the leased trunks direct to the White House as is usually done.

These are all possibilities but in my view are not really probable.

My one and only view of Howard Hunt came on July 7, 1971, the day after Charles Colson hired him. Charles Colson and Mr. Hunt came to my office for a brief introductory meeting. We discussed Hunt's project which was to be a review of the content of the Pentagon Papers to determine their authenticity and accuracy. As far as I then knew, that was what he would be doing for the White House.

That same day, about 2:30 p.m., I left for San Clemente. As of then I knew of no reason for Hunt to have CIA aid.

One does not invoke CIA aid lightly, at least I never did. I only did so a total of three times that I can recall, each time at the specific instruction of the President.

I am certain that the President did not instruct me to secure CIA aid for Hunt.

Thus, if in fact I called the general between July 7 and July 18 from California for help for Hunt, it must have been the first and only time I did so without Presidential direction, and apparently at the request of someone else who phoned me or came to see me in California to ask me to do so. Such a thing is possible, but not probable.

THE CIA AND THE PLUMBERS

The press has pyramided a number of inferences to make it appear that I asked for CIA help so that Hunt could break into Dr. Fielding's office in aid of the White House unit which was trying to plug government leaks of secret documents.

Again, the chronological timing is such as to reduce the probabilities of such a speculation to an inadmissible minimum.

First, the White House unit, the so-called plumbers, did not come into being until after Egil Krogh and I had met with the President in Washington, July 24, 1971. Krogh had been in Asia on a narcotics control trip prior to July 16. I met with Krogh and his associate, David Young, in San Clemente on Saturday, July 17. Young was not assigned by the NSC to this work until about July 16.

They were asked at that time to prepare a proposal for the President for the formation of a special group to manage and act on the Pentagon Papers and other leak problems.

Their proposal was discussed with the President and he approved it in general terms on Saturday, July 24.

Before that date Howard Hunt was not engaged in activities of the plumbers, simply because they didn't then exist. And so his visit to General Cushman, and his requests of July 22, must have related to some other project. I do not know what that might have been.

While in Los Angeles last week subsequent to my testimony before the Senate subcommittee I learned that E. Howard Hunt had told authorities there that, at the time he secured the CIA assistance described, he was working on another matter, and did not secure it for the purpose of breaking into Dr. Fielding's office.

Once the President approved establishment of the unit, I began a round of meetings to introduce Krogh and Young to members of the Cabinet and Agency heads in whose areas they would be working. On July 28 we met with Attorney General Kleindienst. On August 5, 1971, Krogh, Young, and I met with Secretary of Defense Laird and his general counsel for this purpose.

On August 12, we met with Director Helms of the CIA and Mr. Osborne, Director of Security.

As I recall this meeting reviewed the President's charter to Mr. Krogh and we discussed the ability and propriety of the CIA analyzing the news reports and providing a complete catalog of leaks.

As Mr. Helms has previously testified, neither the psychological profile project nor Howard Hunt's request for aid were discussed at this meeting [Tr. 257, 271].

THE CUTOFF AND THE BREAK-IN

General Cushman and I discussed cutting off Hunt's CIA support on August 27, 1971, according to his records.

The break-in in California did not occur until either Friday, September 3 or Monday, September 6, Labor Day. I have heard both dates used. I am told in California on my recent visit there that the Friday date is the reliable date or the one that they are using at least. Either 7 or 10 days had passed since the general and I agreed Hunt should be cut off.

If, in fact, Hunt used CIA equipment or other support in the break-in, it is not clear to me why he still had it then.

I do not suggest that the general or anyone at the Agency knew in advance of Hunt's intent to commit the California break-in. Nor did I.

But the newspapers suggest that the CIA provided cameras to photograph documents, various tools, and so forth. If this is so, a timely recall of this paraphernalia during the week or 10 days after the cut-off would, in fact, have extricated the Agency from any possible suggestion of impropriety after the fact.

The general did not tell me what aid Hunt had requested nor did he ask me to cause any equipment to be returned.

THE AGENCY CAN SAY "NO" TO THE WHITE HOUSE, AND DOES

Beginning with my first conversation with General Cushman in early summer, 1969, held at the President's request, it has been my experience that CIA management is careful, even scrupulous, that it not agree to requests beyond the clear scope of the governing statute.

In 1969 the President was seeking someone to perform a task which he did not want to call on the FBI to do. When I explained it to Deputy Director Cushman he described the legal limits of Agency activity and expressed his opinion that the request exceeded those limits. I immediately agreed, withdrew the request, and so advised the President.

In August and September 1971, I had similar conversations with Director Helms, in which he outlined what the Agency could and could not do in analyzing leaks of classified materials and in making certain documents available to the President for his review in contemplation of a change in classification and declassification regulations.

In October 1971 Director Helms had a meeting with the President on this latter subject, to insure that the President's personal review of the documents would comply in all respects with the law. I attended that meeting.

The President and his staff have consistently relied on the advice and counsel of the CIA management regarding the propriety of any requests for Agency action or aid. So far as I am aware, we have always acceded to the expressed opinion of Agency management on such questions.

For example, the Agency did aid in data retrieval and analysis of leaks of national security secrets to the news media, but only after a CIA review of the question of the legality of the Agency doing so.

Some on other committees have told the press that the CIA felt intimidated by the White House and therefore improperly extended aid to Mr. Hunt. In my few contacts with the CIA I did not detect any such symptoms of intimidation.

On the other hand, Director Helms and the Director of Operations, Mr. Colby, later—December 15, 1972—told me that the CIA had held Mr. Hunt in low esteem as a result of his performance as an employee of the Agency. General Cushman testified he relied on Hunt's discretion in not exceeding legal limits [Tr. 158]. In retrospect, one must ask why Hunt would be extended *carte blanche* at the Agency for nearly a month without asking what he was doing, especially since CIA management has shown on reticence in the past in describing the legal limits of the Agency's ability to help.

The committee may wish to make some notice of the fact that the CIA receives dozens and dozens of requests and instructions from the White House in a typical year. In the transcript of the Senate subcommittee, Mr. Helms refers to hundreds of such requests [Tr. 213]. I mention this because General Cushman may have left the impression that the call for aid which he received was the first time the White House had called. His testimony leaves one with a mental picture of the general standing at attention as he talked on the phone to the White House for the first time.

There were well-established channels for negotiating how a request might best be handled, and by that I mean that the National Security Council staff had people designated who were CIA contact people. So there was a well-established channel. Beyond that, the Director had direct access to the President, Dr. Kissinger, Mr. Haldeman, and many others, should a matter need to be discussed.

One matter, declassification, was handled in such a fashion, with the Director suggesting a meeting with the President, which took place October 8, 1971.

The Hunt problem was actually handled as I suggest. The general called and I immediately agreed to the cutoff. Had he called 2 or 3 weeks earlier he'd have had the same result.

In my personal experience, the White House has never insisted that the CIA do something which the Director has firmly objected to or, for that matter, anything which the Deputy Director has objected to.

That includes aid to Mr. Hunt, and the psychological profile as well, as the Senate subcommittee record shows.

This committee will be slow, I am sure, to accept the suggestion that General Cushman was in any way coerced or forced into extending aid to Hunt. There is not a scintilla of evidence in the Senate record to support such a story.

Here I shift to the second subject, Mr. Chairman.

THE CIA AND THE WATERGATE—JUNE 1972

The President asked Mr. Haldeman to convene a meeting with Director Helms and Deputy Director Walters after the Watergate investigation began. Mr. Haldeman told me the President wished me to sit in. As it happened, my office was used for the meeting.

Mr. Haldeman said that the President was concerned about the effect

of the FBI investigation upon the Agency. The President intended to require a full, vigorous FBI investigation with no strings but believed that the trail might lead to Agency people or activities either in this country or abroad unrelated to the Watergate incident itself. The President was especially concerned about Agency activities in Mexico which might be disclosed.

Mr. Helms and General Walters were asked first, if the CIA had a part in the Watergate break-in. They replied that it did not.

They were asked if a very vigorous examination of the past of the burglars or their money sources might jeopardize the secrecy of present or past CIA operations unrelated to the Watergate, including those in Mexico. They replied that no past operations would be jeopardized, so far as they could tell then. But General Walters would not say that the CIA had no concern on the question of Mexican operations. I got the impression that Mr. Haldeman's shot had hit some target.

Apparently Director Helms also took General Walters' reply at face value. At page 241 of the Senate transcript he testified that he told General Walters after the meeting that if the FBI investigation did run into the CIA Mexican operation, the established procedure should be followed. See also General Walters' memcons, especially the memorandum of June 28, 1972.

As a result of this equivocal response by General Walters respecting Mexican operations, he was asked to make contact with Acting FBI Director Gray and give him all the facts. I believe the general called Gray from my outer office to arrange to see him at once.

Helms and Walters were told that John Dean was following the Watergate matter closely for the President and any future White House contact could be with him. I'm not sure whether they were told this on the occasion of the meeting or later, but I do recall having some part in getting Walters to talk to Dean. I believe I also informed Dean of the meeting, of my impression of Walters' response regarding CIA Mexican operations, and I believe I told Dean that Walters would be working with Gray on the problem.

Later Dean told me he had been in touch with Walters and that the CIA did not believe an investigation would harm their operations. I was unaware of Dean's meetings or conversations with Walters regarding use of CIA money for salaries for the defendants until the news reports the month of May about them.

During the first week of July 1972, the President told me Pat Gray told him on the telephone that General Walters had told Gray there was no CIA objection to a full FBI investigation of the Mexican aspects of the *Watergate* case. The President said he then instructed Gray to conduct a full investigation.

The President told me then that he still personally believed and feared that the FBI investigation might harm the Agency.

He said he believed the CIA would be making a mistake if it pretended an investigation would not disclose some of its current operations. He said he hoped the general and other CIA management were not covering up for their subordinates.

The President said substantially: A man makes a grave mistake in covering up for subordinates. That was President Truman's error in the *Hiss* case when he instructed the FBI not to cooperate.

The President instructed that neither Gray nor Walters were to be interfered with in pressing the investigation. I conveyed a message to Pat Gray, as a result, that he alone was to determine the scope of the investigation.

Some questions have arisen because I advised Mr. Gray not to hold a meeting he proposed to have on this CIA question. First, I did not "cancel" Mr. Gray's meeting. I did object to the idea of the staffs of the Bureau and Agency meeting with Gray and Helms and Walters on this because we strongly suspected that Time magazine had a freely running leak source at the top level of Gray's staff. I urged that Gray meet with Walters on a one-to-one basis, without including staff, until the matter was resolved.

I had several conversations with Director Gray concerning FBI leaks, but I think only one which directly related to the CIA question.

In retrospect, had General Walters at the June 1972 meeting said to Mr. Haldeman and me the things he apparently said later, I have no doubt he would have saved himself a trip to see Director Pat Gray. Had we been told flatly there was no "Mexican connection" to the CIA at that time, that would have ended the matter as far as I was concerned.

But, as his own memorandums demonstrate, that is not how General Walters answered our questions.

Had it not been for the general's encouragement of the President's suspicion about the effect on CIA operations in Mexico, I have no doubt the matter would have ended moments after it began in my office.

I believe the President's questions about the possible threat to the CIA had to be asked and answered, in the national interest. In retrospect it would seem that any resulting problems did not arise from the question being asked. Rather, they arose from the equivocal answer given to that question.

SUMMARY

No one person can provide all the answers to all the questions that can be asked about White House conduct relating to the CIA over the 1969-72 term.

The National Security Council staff and Dr. Kissinger had day-to-day contact and liaison with the Agency for the White House.

For others to become involved in a matter relating to the CIA was relatively rare. Over the 4 years I don't believe I had more than six or seven personal contacts with the Agency.

I, for one, treated such contacts with as much delicacy and care as possible. My business with the CIA was almost invariably at the President's direction but, even so, I consistently deferred to Agency executives' views of the propriety of the requests I transmitted.

I recognize the difficulty for the committee in my testimony in the matter of the Cushman telephone call.

In candor, I would prefer to be able to simply say to the committee, "Yes, I did" or "No, I didn't."

But, in view of the general's categorical statement on the record, and the absence of any witness, or documentary or other objective evidence to "prove the negative" for me, I can only tell the committee

the state of my recollection and what I know of the surrounding circumstances, and rely upon the committee to find the truth.

It may be the committee will conclude that the question of the identity of the caller is really peripheral to its inquiry, or cannot be conclusively resolved. It may be that both the general and I are correct; some third person may have called and given or mentioned my name. This would seem to have been the general's recollection in January 1973.

However begun, the Hunt aid was cut off in time to have avoided CIA involvement in the Fielding break-in.

In fact, there actually may have been no CIA aid employed in the break-in. Parenthetically, Mr. Chairman, that would seem to be corroborated now by Hunt's testimony on the west coast last week.

I concurred totally in the cutoff, consistent with my practice of deferring to Agency views concerning legal limitation on CIA activities.

While I attended the Helms-Walters meeting and have given you my best recollection of what took place, it was not until about a week or so later that I understood the President's true concerns and the significance of the meeting.

The press has said that we attempted to coerce the CIA into accepting blame for the Watergate break-in at that meeting. We did not.

As the President has said, to the extent that the CIA had a stake or interest in the outcome of the Mexican investigation—as General Walters indicated the CIA might—we were concerned that this information be given to Director Gray at the FBI. I consider my participation in that meeting to have been entirely proper.

Then there is attached to the statement, Mr. Chairman, a chronology of two pages.

Thank you, Mr. Chairman.

Mr. NEDZI. That chronology is identical to the one which you presented to the Senate, Mr. Ehrlichman?

Mr. EHRlichman. Yes, sir, I have not changed it.

Mr. NEDZI. Thank you, sir.

[The chronology referred to is as follows:]

CHRONOLOGY

1971

July 6—Howard Hunt hired as part-time White House Consultant.

July 7:¹

9:30 a.m.—Colson brings Hunt to meet Ehrlichman.

2:30 p.m.—Ehrlichman leaves for San Clemente.

July:

7-18—At San Clemente.

15—Young recruited to work on Special Unit plan for submission to the President.

16—Krogh returns from Asia. Assigned to work on plan.

22—Hunt meets with General Cushman.

23—Hunt draws papers, disguise, voice modifier from CIA (Tr. 153).

24—Krogh and Ehrlichman meet with President; special unit plan approved ("Plumbers" created).

28—Meeting with Attorney-General re: formation of special unit.

¹ Cushman affidavit puts Ehrlichman phone call requesting assistance for Hunt at "about" July 7.

August:

- 5—Meeting with Secretary of Defense.
- 12—Meeting with Helms, Osborne.
- 18—Hunt requests a CIA secretary from Paris (Tr. 155).
- 20—Hunt draws a CIA tape recorder (Tr. 153).
- 25—Hunt draws a CIA camera (Tr. 153).
- 26—Camera returned (Tr. 166). CIA makes and keeps a copy of the prints (Tr. 49).
- 27—General Cushman phones Ehrlichman and Hunt's CIA aid is cut off. (31 days in August)
- September 3 (Friday) or 6 (Monday—Labor Day)—Dr. Fielding office break-in in California.
- 22—Helms-Ehrlichman meeting at CIA re Presidential review of documents for declassification. (30 days in September)

October:

- 1—Helms-Ehrlichman meeting at CIA re documents for declassification.
- 8—Helms meeting with the President re declassification.
- 12—Final Psych. Profile delivered.
- November 16—Colby-Ehrlichman meeting.

1972**December:**

- 15—Dean and Ehrlichman meet with Helms and Colby to review facts to be submitted to the U.S. Attorney re Hunt.
- 16—Ehrlichman to Cushman phone call.

1973**January:**

- 5 or 6—Ehrlichman to Cushman phone call.
- 8—First Cushman memo. Ehrlichman to Cushman phone call.
- 10—Second Cushman memo.

Mr. NEDZI. Mr. Ehrlichman, in your statement you say that General Cushman said it was August 27 when you received a phone call from him about Hunt.

Do you have any records at all of that phone call?

Mr. EHRLICHMAN. No, sir, I do not.

Mr. NEDZI. Is no log kept in the White House regarding calls?

Mr. EHRLICHMAN. No; the practice varies among offices. I have never kept a telephone log.

Mr. NEDZI. Of any telephone conversations?

Mr. EHRLICHMAN. I have recorded verbatim some telephone conversations, particularly those where I was acting as a conduit from somebody to the President and I wanted to be sure I was getting things exactly right, and so I would have a record of such a recorded telephone call, but that was a rare occurrence. Maybe 1 in 1,000.

Mr. NEDZI. When you say "recorded," what form did the recording take?

Mr. EHRLICHMAN. A dictabelt, I would just turn on a dictating machine.

Mr. NEDZI. Did you advise the caller you were recording the call?

Mr. EHRLICHMAN. Usually not.

Mr. NEDZI. You recorded no telephone calls from the Agency?

Mr. EHRLICHMAN. Sometimes I did; occasionally I did.

Mr. NEDZI. What kind of calls did you record?

Mr. EHRLICHMAN. I can recall one call which was a conversation with Director Helms that I had on the subject of declassification, where he had a message for the President, and I wanted to be sure I got it right.

I can't recall any others offhand.

Mr. NEDZI. Were there any calls from Mr. Gray that were recorded?

Mr. EHRLICHMAN. Occasionally; not as an invariable proposition, but occasionally I would record a call from him.

Mr. NEDZI. This was also for the purpose of communicating to the President?

Mr. EHRLICHMAN. Either for that purpose, or to be sure I had the content exactly right.

Mr. NEDZI. Are the tapes of these calls available?

Mr. EHRLICHMAN. Yes—well, I say yes—those that were retained. Many of them turned out to be calls that were not significant or had no use, and the tapes were simply erased. I have retained 20 or 30 tapes, I guess, that are in the White House files.

Mr. NEDZI. Do you know whether any tapes of calls, tapes involving individuals within the Agency, or the FBI, have been retained?

Mr. EHRLICHMAN. Yes; some with Director Gray have been retained.

The one that I mentioned with Director Helms is one that was retained.

Mr. NEDZI. Is it possible for this committee to get copies or transcript of those calls?

Mr. EHRLICHMAN. That I don't know, Mr. Chairman. They are not in my custody, and that is something that would have to be worked out with Mr. Buzhardt, the General Counsel at the White House.

Mr. NEDZI. Do you have transcripts of those calls?

Mr. EHRLICHMAN. I do not have transcripts of the Helms call. I had the Gray calls, and I turned them over to the grand jury.

Mr. NEDZI. Did you retain copies for yourself?

Mr. EHRLICHMAN. I don't believe we did—did we? If I do they are in possession of counsel.

Mr. NEDZI. Would you furnish them to this committee?

Mr. STRICKLER. As counsel, speaking as one representing Mr. Ehrlichman, I have no objection to furnishing this committee with transcripts of those calls. I would like the opportunity to check it with Mr. Buzhardt to see what reaction he may or may not have to it, Mr. Chairman.

Mr. NEDZI. The Chair's understanding is you will furnish, subject to Mr. Buzhardt's approval, all of the telephone calls pertaining to the FBI or CIA?

Mr. EHRLICHMAN. Which I have in my possession, which is a very few, if any.

[Transcripts from record of Senate Watergate Committee:]

EXHIBIT No. 102

Conversation with Pat Gray, March 7 or 8, 1973

E. Ehrlichman

G. Gray

E. Been testifying today?

G. Yeah, I'm having a ball. Let me just tell you an unusual development that happened today I think you'll be interested in and it's not a disaster or anything, it's just a total surprise I think to everybody including me and all the committee members. Over the weekend I had prepared a rather forceful statement saying that this function of the committee was . . . the function of this committee was to look into my qualifications and to examine my procedural conduct of the Watergate not to get into substance that this had been assigned to the Ervin select subcommittee and they would erect the proper safeguards to protect those who were innocent and were just standbys in this whole matter here of this criminal offense and I talked about constitutional due process and the right to privacy and all that kind of stuff. What the hell should turn up this morning to the chairman of the committee and each member of the committee and then a copy was delivered to me in the hall as we were walking into the hearing room but a three page letter from the ACLU practically saying the same damn thing. So what has happened is that we got a state of consternation up there right now with the ACLU and the FBI in the same bed. And I don't know what the hell they're going to do on that. I wanted you to know that that development occurred and I also got another letter today along the same lines from a professor who's pretty highly respected and I talked with Jim Eastland. We're going to throw that letter into the hopper tomorrow, too. I'll read that—that's one of the first things I'll do tomorrow morning.

Another thing I want to talk to you about is that I'm being pushed awfully hard in certain areas and I'm not giving an inch and you know those areas and I think you've got to tell John Wesley to stand awful tight in the saddle and be very careful about what he says and to be absolutely certain that he knows in his own mind that he delivered everything he had to the FBI and don't make any distinction between . . . but that he delivered everything he had to the FBI.

E. Right.

G. And that he delivered it to those agents . . . this is absolutely imperative.

E. All right.

G. You know I've got a couple of areas up there that I'm hitting hard and I'm just taking them on the attack.

E. OK

G. I wanted you to know that.

E. Good. Keep up the good work, my boy. Let me know if I can help.

G. All right. He can help by doing that.

E. Good, I'll do it.

Conversation with John Dean same day immediately following

E. Ehrlichman

D. Dean

D. Hello.

E. Hi. Just had a call from your favorite witness.

D. Which is?

E. Patrick J. Gray

D. Oh, really?

- E. And he says to make sure that old John W. Dean stays very very firm and steady on his story that he delivered every document to the FBI and that he doesn't start making nice distinctions between agents and directors.
- D. He's a little worried, is he?
- E. Well, he just doesn't want there to be any question. He says he's hanging very firm and tough and there's a lot of probin' around.
- D. Yeah, he's really hanging tough. You ought to read the transcript. It just makes me gag.
- E. Really?
- D. Oh, it's awful, John.
- E. Why did he call me? To cover his tracks?
- D. Yeah, sure. I laid this on him yesterday.
- E. Oh, I see. OK.
- D. I laid it on him to, you know, to fuse the issue so I don't have any idea what he said up there today.
- E. I see. It was a funny phone call. Said he was going in to object to the jurisdiction of the group to get into the substance and that their own jurisdiction was to . . . was procedural efforts and his competence and he says the ACLU put a letter in to the same effect.
- D. Yeah. Wally picked up an interesting one on the grapevine today that planned strategy now is to proceed in this one as they did in the Kleindienst.
- E. Down to the point of calling you?
- D. Down to the point of calling me and——
- E. Let him hang there?
Well I think we ought to let him hang there. Let him twist slowly slowly in the wind.
- D. That's right. I was in with the boss this morning and that's exactly where he was coming out. He said I'm not sure that Gray's smart enough to run the Bureau the way he's handling himself.
- E. Well, OK, you're on top of it. Good.

EXHIBIT No. 103

Conversation with Pat Gray

G. Gray.

E. Ehrlichman.

E. Hi, Pat.

G. John, I thought I'd better just give you a report. They worked me over plenty today but I went on the offensive pretty hard and as I told John Dean in my noon report to him to look at the transcript and we may have even won some of the public relations battle today. I don't know. This afternoon was easier from the standpoint of questions than this morning but I defended vigorously the right of the Counsel to the President in his official capacity to be present at those interviews. I defended vigorously the right of an employer to insist that his counsel be present at interviews of his employees particularly when there were implications that these employees may have been involved in hanky-panky that would reflect adversely on the employer.

E. Is that going to make problems for the Bureau and other contexts?

G. No. No. You see, it's a thing where this is happening more and more even though I have to say for the record our preference is that this not occur and the norm is that it does not occur but in these past few years it has been occurring more and more and more and it's just the thing that we have to face up to.

E. People being interrogated having counsel?

G. Yeah. And we got into the thing, you know, we brought it out and hit it hard oh at least three times today with three different Senators. In fact, even Jim Eastland hit it for me in his questioning about our investigation of the Democrats and the little red black box and how many times it took us to get O'Brien and all that kind of stuff and the fact that they put their counsel in the interview too.

E. Good.

G. Now, just from sizing this thing up it looks to me like this probably. Tunney said to me today that the last thing he said when he was closing out his questioning is that he's going to move in the committee in their executive session that John Dean be called and of course I didn't respond in any way at all because that's their business and I told John I wanted the President to hang in there on that executive privilege and I told Eastland that in no way can I see a man with an attorney-client privilege—the President—being called on and I told John to make sure that you and the President understood that he ought to stand strong and tall in that saddle and if this—don't do anything to save me. That's what I'm saying.

E. I get it.

G. Of course he's got to make the judgment. I can't.

E. Do you think that there is enough votes on the committee to hold you hostage?

G. No, I don't. My feeling right now is that if we can keep those Republicans together we'll be alright. We'll probably be able to defeat that kind of a motion but you know I haven't asked did the White House or the Department of Justice have anything to do with your confirmation hearings because we're trying to keep it nonpolitical but now I'm beginning to think that maybe a call to Roman Hruska or however you all do that but I wouldn't let it get out among the guys at the lower level at all at the White House in making any move or it'll backfire.

E. Do you think on the Dean subject, huh?

G. I think on the fact that they ought to stay together on this thing and that this is the counsel to the President, this is attorney-client privilege—god-damn constitution. What the—they treat the Berrigans one way and they want to do it differently here. I said that to some of the Republican Senators and to the chairman.

- E. Good. I got a call from the press room a little while ago about whether I had had any phone conversations with you about the—they got an inquiry.
- G. I got them exactly, John. I've got the exact accounting of it and I think we had five calls during the whole thing and I saw you twice and what I have stated, you know, they got to this today and I said everyone of these were procedural. I advised both Mr. Ehrlichman and Mr. Dean that we were going to conduct this investigation with the full aggressiveness and vigor within the capabilities of the FBI. We were going to run it right to wherever it led and I said both of them agreed with me completely. I had no hindrance, no.
- E. How did my name come into it?
- G. Well, they asked me pointblank, just straight out. Did you have a telephone conversation at any time with Mr. Ehrlichman period. Just straight out. You know, those meetings were procedural meetings.
- E. Yeah.
- G. And they asked me who I met with with you and my recollection was there was nobody. You and me period. And that's going to be my testimony.
- E. And when you said procedural you meant with relation to how you were going to conduct the Watergate investigation.
- G. Right. And I said this was informative only and I emphasized and repeated that I got no direction, no guidance, no hindrance, no impedance, no handicaps whatsoever from anybody and that there was agreement that this is the only way that it could be done. I didn't say, you know, that the President came out later and made a public statement on it. That's for one of those Republican Senators to——
- E. OK.
- G. I counted them today. It's 5 telephone calls to you and twice I saw you. I'll give you a note on it.
- E. Alright. Did they ask who initiated the calls or anything of that kind?
- G. No.
- E. OK. Very good.
- G. I'll send you over a note. You'll have it first thing tomorrow. Date and time.

Mr. NEDZI. In your statement you said it was ironic that General Cushman took your request as equivalent to absolute mandate in view of your White House position.

Why was that so ironic?

Mr. EHRLICHMAN. I considered it ironic, because the form of the general's testimony before the Senate subcommittee which I read was that he just really didn't feel he had any discretion in the matter and this was an individual he had known for many years, and he laid it on pretty thick, and then he said, you know, "I just didn't have the right to say 'No,'" when the fact is that the only other business conversation I had ever had with him was one in which he turned me down cold.

I think there is an element of irony in that.

Mr. NEDZI. What was the form of that other contact?

Mr. EHRLICHMAN. Telephone conversation.

Mr. NEDZI. What did you request of him?

Mr. EHRLICHMAN. Well, I passed along a request from the President which I think, Mr. Chairman, I should not get into. It is within the realm of executive privilege in so far as the substance of it is concerned, but it was a request for a CIA service which General Cushman explained was outside or at least partially outside of the scope of the permissible limits within the statute.

Mr. NEDZI. Could it have been so outrageous as to provoke this kind of response in that instance, and a different response come in another instance?

Mr. EHRLICHMAN. Not in my opinion, Mr. Chairman. There was not an outrageous request. It was simply one which for technical reasons the general explained could not be complied with.

Mr. NEDZI. Did you object to the general's rationale this was a time when there were leaks in the Government and he felt that this was a legitimate area in which the CIA might be involved?

Mr. EHRLICHMAN. Of course the problem there is that we had not yet begun the action on leaks at the time that Hunt paid his first visit to General Cushman, and Hunt's evidence——

Mr. NEDZI. The Pentagon papers had been leaked, had they not?

Mr. EHRLICHMAN. They had been leaked.

Mr. NEDZI. The most vivid leak we have had.

Mr. EHRLICHMAN. The point is, according to Hunt I am told, that is not what he was working on, that isn't why he went to see General Cushman.

Mr. NEDZI. By whom were you told that?

Mr. EHRLICHMAN. The district attorney in Los Angeles County.

Mr. NEDZI. When was this?

Mr. EHRLICHMAN. Last Friday.

Mr. NEDZI. You made this statement before last Friday, did you not?

Mr. EHRLICHMAN. I made two additions to this statement in the form that I presented to the Senate subcommittee. That was one, and the reference to the Star story was the other. Page 3 and page 8 I believe have been redone.

Mr. BOB WILSON, Mr. Chairman.

Mr. NEDZI. Yes.

Mr. BOB WILSON. I presume Mr. Ehrlichman was referring to this very request in his statement on page 10 where he says in 1969 the President was seeking someone to perform a task for which he did not want to call on the FBI to do, and when he explained it to Deputy Director Cushman he expressed his opinion the request exceeded those limits.

I think that clarifies it, doesn't it?

Mr. NEDZI. Well, the only point, Mr. Wilson, is in that particular case it may have been something that obviously exceeded the legal limits which the CIA may be involved in.

General Cushman had a rationale for assisting Hunt in his testimony. He stated a number of times he thought this was a legitimate request pertaining to leaks that had been occurring within the Government.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. I respect your rights not to go into what that request was, but would you care to maybe say whether it had anything to do with the Watergate—you have not commented on that.

Mr. EHRLICHMAN. I am happy to comment on that, Mr. Bray. This was 1969.

Mr. BRAY. Oh, that was earlier.

Mr. EHRLICHMAN. It was within 4 or 5 months of the inauguration. The President had agreed to have some surveillance conducted in the national security matter. He did not want to go to the FBI on it. So he asked me to transmit the request to the CIA.

Mr. BRAY. That is what I was interested in. In fact, that had nothing to do with this matter in any way?

Mr. EHRLICHMAN. Not at all.

Mr. BRAY. Not direct or indirect?

Mr. EHRLICHMAN. Not even indirect.

Mr. ARENDS. In the matter of security leaks, did the President go to either the FBI or the CIA?

Mr. EHRLICHMAN. Not as I understand it, Mr. Arends. The CIA is delimited against investigation or intelligence activities of U.S. citizens domestically, and that would be, I take it, the exclusive province of the FBI. That was generally, I think, the basis for the general declining the assignment in 1969, that at least part of the assignment would have related to such an activity, or could have, conceivably could have even.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. Just a suggestion. It might be well for this committee or the counsel to go into the limitations of CIA. I have a general idea of it, but to clarify it.

Mr. HOGAN. We have done that, Mr. Bray. It is in the record.

Mr. BRAY. Mr. Chairman, I would like to ask just one brief question about the matter referred to on page 11, to:

Declassification was handled in such a fashion, with the Director suggesting a meeting with the President, which took place October 8, 1971.

Did that have to do with the declassification that this subcommittee had requested back when we were going into the Pentagon papers?

Mr. EHRLICHMAN. No, sir; this related to a project that the President initiated for the accelerated declassification of historical documents. For instance, the landing in Lebanon during the Eisenhower administration. He felt historians ought to have available to them on an accelerated basis this information.

Mr. BRAY. I think that directive, although possibly not pertinent here, that directive came out before, and later our action was in supplementing and extending that same classification. I believe that is the connection.

Mr. EHRLICHMAN. I believe that is right. This was at the study phase. The President wanted to see for himself what sort of documents were involved, and he asked for documents not only from the CIA but I think the Defense and State Departments as well, and I can recall quite a bundle of stuff coming over.

Now, the Director of the CIA was very tender on this whole subject, and he didn't like the idea of wholesaling documents out, and so he said to me, because I was sort of the go-between, "I have no objection to the President personally seeing this, but," he said "I just really don't want anybody else getting into some of this."

And so I said—well, I went back to the President and I came back to Mr. Helms, and this was the telephone conversation we had that is on record in which he imparted his concerns to me. I imparted them to the President. I went to the President with them. He came back and said "You can reassure the Director on this." Nevertheless, the Director said "Well, fine, I have confidence in you and all that, but," he said "I really think I better sit down and talk with the President about this. This is a very important thing to the Agency."

And so I said "Fine," I went back to the President, the President said "Fine, let's have an early appointment," and we did, and he and the President sat down and went through this whole subject.

The Director at that time made a very strong pitch to the President that declassification was fine and historians were fine, but there were just some things in the Agency that you couldn't declassify. So that was that whole sequence of events.

Mr. NEDZI. Mr. Ehrlichman, in the insert which you provided to the statement you have given to the Senate subcommittee, you quoted an item in the Washington Star and Daily News of June 3, with reference to General Cushman's and Hunt's extensive acquaintanceship.

Are you aware of that acquaintanceship?

Mr. EHRLICHMAN. No, sir.

Mr. NEDZI. On the basis of anything else but the newspaper article?

Mr. EHRLICHMAN. I have done no checking on that at all. I had no prior knowledge of it.

Mr. NEDZI. No one has ever indicated to you they were close friends or anything of that nature?

Mr. EHRLICHMAN. That was a complete surprise to me when I read it there.

Mr. NEDZI. All right. Do you have any reason to believe that this was the foundation, as is suggested by the article, for General Cushman being so receptive to Mr. Hunt's requests?

Mr. EHRLICHMAN. I have neither a basis for belief nor disbelief, Mr. Chairman.

Mr. NEDZI. What was the purpose of inserting this in your statement?

Mr. EHRLICHMAN. It was an additional fact which had appeared in the press that I felt was probative and important for consideration. It has been a lingering question in this matter for me as to the general's rather out of hand receptivity to Mr. Hunt's approach, and the willingness of the general to develop CIA support for him without knowing what his mission was, and as you see from the chronology, one day after another there was a steady escalation of requests by Mr. Hunt of the Agency, and these requests were steadily complied with up to the point where Director Helms finally blew the whistle.

It just didn't add up to me. It didn't seem to me like the way the Agency ordinarily would act. All right, here is a tidbit of information and I can't vouch for it, but at least it adds to the explanation. As far as I am concerned—if it is true.

Mr. NEDZI. How do you know Mr. Helms blew the whistle?

Mr. EHRLICHMAN. That is in the testimony in the Senate subcommittee.

Mr. NEDZI. Whose testimony?

Mr. EHRLICHMAN. Mr. Helms' testimony.

Mr. NEDZI. Did you have occasion to examine some of the CIA memorandums on this subject?

Mr. EHRLICHMAN. Not apart from the material turned over to us by the Senate subcommittee, no, sir.

Mr. NEDZI. In your statement, Mr. Ehrlichman, you say that "I also recalled wondering at the time"—I take it the time you received the call from General Cushman—"how Hunt had obtained help from the CIA in the first place."

Mr. EHRLICHMAN. Right.

Mr. NEDZI. Why didn't you ask him?

Mr. EHRLICHMAN. Well, in effect I did. I asked him at that time was he working for the Agency? And he said "No."

I said "Is he supposed to be working for the White House?"

He said "Yes."

Mr. NEDZI. That was the extent of your inquiry?

Mr. EHRLICHMAN. As I recall, yes, sir.

Mr. NEDZI. I am puzzled that you didn't inquire into more depth as to the circumstances.

Mr. EHRLICHMAN. I wish now that I had, but I didn't.

Mr. ARENDS. Right at that point, what does our record show, to refresh my memory, as to how Hunt got started with the CIA? What do our records disclose factually?

Mr. NEDZI. I was going to get into that as we go along.

Mr. ARENDS. That will be good. You go right ahead.

Mr. HÉBERT. I would like to point out one paragraph, this Ehrlichman discussion with the chairman in reference to putting into your testimony the statement of the news account quoted out of the Star, and then you subsequently state here you don't know whether it is a fact or not.

Mr. EHRLICHMAN. Yes, sir.

Mr. HÉBERT. In order to establish it, I want to find out exactly your thinking and how far it is carried. Have you been pretty aware of news accounts not established?

Mr. EHRLICHMAN. Yes, I have, on occasions where I knew them to be false, I certainly have.

Mr. HÉBERT. Why did you set this up as a fact you didn't know it to be false or good, false or true, to use it for your own good?

Mr. EHRLICHMAN. I have no way of determining the truth or falsity of this allegation, nor have I any way to determine the truth or falsity of things testified to in the Senate process. I think it is incumbent upon me to bring to this committee anything which is advanced as fact in order that the committee might wish to inquire further on it.

I think this is an important allegation, and I advance it in that sense.

Mr. HÉBERT. All right. But I don't say in that sense. It was only drawn out in examination by the chairman here, you didn't know this to be a fact. Anybody reading this would have to accept this as a known fact. As a matter of fact, you don't know it to be a fact. You have past leaned on approving things; today you lean on it.

Mr. EHRLICHMAN. I certainly meant to cite the source, or if I didn't, I meant to, as indicating very clearly it was a newspaper story and nothing more.

Mr. HÉBERT. I buy that.

Mr. EHRLICHMAN. It is to be taken and given such weight by the committee as the committee in its judgment deems it is entitled to, as everything I have said there.

Mr. HÉBERT. We are in substantial agreement on the statement. When I refuse to take an unfounded statement and criticize those operations, I subsequently don't lean on those type of operations.

Mr. BOB WILSON. Going back to the colloquy with the chairman a moment ago about your conversation on the phone with General Cushman when you asked him who authorized it, and he said the White House, and you said who at the White House. That was the time you said "Well, I will take the responsibility to cut it off right here, and if anybody squawks, I will know who authorized it," is that the time you are talking about?

Mr. EHRLICHMAN. Mr. Wilson, I did not ask him in that conversation, to the best of my recollection, who specifically had authorized it, but what I said to him was "Look, I will take the responsibility for cutting it off and if anybody squawks, send them to me."

I don't believe that the general and I, back in August of 1971, discussed who turned it on. He certainly didn't say I had turned it on, nor did I ask him who had turned it on. What I gave you here is my present recollection of a mental process I went through in thinking to myself, well, if anybody squawks, I will know who turned it on, but nobody ever did.

On the other hand, in late 1972 when the U.S. Attorney was inquiring, I did call the general and asked him who had turned it on, and at that time he said he couldn't recall, and that is when the first memo came that named me and Mr. Dean and Mr. Colson, and then I called him back and said in effect "Hey, I thought you couldn't recall."

Mr. BOB WILSON. At the time you took responsibility for withdrawing the aid, wasn't the point raised as to who initiated it in the first place?

Mr. EHRLICHMAN. I don't believe so. That is what I say, I wish I had now, but I don't believe it was.

Mr. NEDZI. Mr. Ehrlichman, did you regard dealing with the CIA as something sensitive?

Mr. EHRLICHMAN. Yes. It was an unusual thing for me to do. It was outside my normal duties.

Mr. NEDZI. That being the case, I am puzzled as to why you didn't inquire into more depth about the Hunt matter, who authorized this. The implications, it seems to me, would have been very disturbing at that time.

Mr. EHRLICHMAN. I will have to give you the flavor of my recollection on this. I think the way the general put it to me was more in the sense that this man was overstepping the bounds of routine propriety than that he was committing some illegal excess of something of that kind.

Mr. NEDZI. Did he use the phrase "Mr. Hunt has a questionable judgment"?

Mr. EHRLICHMAN. No, not at that time, as I recall, he didn't.

Mr. NEDZI. At what time did he use it?

Mr. EHRLICHMAN. He did not to the best of my recollection. Mr. Helms did, at a considerably later time, tell me he questioned Hunt's judgment, but that was in a different context, on a different subject.

Mr. NEDZI. You are aware General Cushman in his affidavit did say that he told you that he considered Hunt to have a questionable judgment?

Mr. EHRLICHMAN. Yes, I know.

Mr. NEDZI. But you say he didn't tell you that?

Mr. EHRLICHMAN. I certainly don't recall it.

Mr. NEDZI. In your statement you say that you told Mr. Dean of your August 1971 conversation with General Cushman in December of 1972 when Mr. Dean advised you that Assistant U.S. Attorney Silbert needed information about Hunt. Was this merely recollection?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. You had no documentary evidence of any kind that would refresh your memory on this score?

Mr. EHRLICHMAN. I don't believe so. As I recall the conversation, Dean told me what the U.S. attorney needed, which was any information he could get as to how Hunt got assistance from the CIA.

I said, "Well,"—words substantially—"John, I don't think I ever knew how he got started. I know I cut him off, and it was a long time ago, and I am vague as to the circumstances."

He said, "Well, I am going to have a meeting with Helms and somebody else from the CIA on this, would you mind sitting in?"

I said I would be glad to. So the four of us met. In the process of that meeting they had some memos or some dates or something which focused the time for me, so then I operated pretty much on the basis of what they brought to the meeting in the way of dates and memorandums.

Mr. NEDZI. Did that meeting result in your call to General Cushman?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Do you recall the date of that meeting?

Mr. EHRLICHMAN. I think it is in the statement, and as I recall it was about December 15, 1972. That was in the chronology, I believe. Yes, December 15, 1972.

Mr. NEDZI. Can you describe the tone of your conversation with General Cushman that followed this meeting?

Mr. EHRLICHMAN. Yes, sir. As a matter of fact I have set it out verbatim in the statement. I did have a transcript of that telephone call, and so I was able to give you precisely the tone of it by setting out verbatim at page 4 what it was I requested of him.

Mr. NEDZI. Would you furnish the subcommittee with a transcript of that telephone call?

Mr. EHRLICHMAN. Yes, sir, if I have it, I will be happy to do that, subject to the same clearance by the White House.

[Transcript not submitted. See p. 333.]

Mr. NEDZI. That is the entire telephone call. There must have been some response on the general's part which is not quoted.

Mr. EHRLICHMAN. Yes, and as I recall, the response is very perfunctory. He said simply, "Yes, I will be happy to do that." I said, "Thank you." He said, "Thank you." And that was the end of the conversation.

Mr. NEDZI. What was the tone of the call to the general protesting the inclusion of your name on this list?

Mr. EHRLICHMAN. I said to him, "General, I have your memorandum here, and I am distressed to see my name among those that you think might have called you to set this up." I said, "As I recall, when we talked the other day, you had no recollection of who it was." And I said, "With this thing going the way it is, I am just not very comfortable in being included in speculation of this kind." Or words to that effect. And he was very nice about it and came back and said, "Well I just came up with those names because those are people I know in the White House." He said, "It was somebody I know in the White House." And he said, "I am sorry about that; I will tell you what I will do." He said, "You just tear that up and I will send you another one."

So I said, "Well, I would be grateful if you would just give us your accurate recollection of what took place."

So that is when the second memo came. I didn't tear it up. I turned it over to Dean. And he turned the whole file, including both memos, over to the U.S. attorney.

Mr. NEDZI. What did you mean when you said in your statement that "I asked him," that is, General Cushman, "how Hunt had secured aid from the CIA."

Mr. EHRLICHMAN. Just that—the inception of it, how it had started.

Mr. NEDZI. He didn't tell you?

Mr. EHRLICHMAN. Would you cite me to the page?

Mr. NEDZI. Yes, on page 6.

Mr. EHRLICHMAN. Yes. By that I mean what I stated before. I don't mean to add anything to my description of the conversation before, which was simply that I asked him who Hunt was working for, what his project was, whether it was a CIA project or a White House project.

Mr. NEDZI. Is that asking him how Hunt had secured aid from the CIA?

Mr. EHRLICHMAN. Well, maybe this language isn't very artful, but that is what I intended by that, because my recollection of the conversation is those are the questions that I asked him.

Mr. NEDZI. You mentioned in your statement if the call came in the period July 8 to 19, et cetera. And then you engaged in some dis-

cussion of that possibility, when, as a matter of fact, the general has never claimed the call came in that period, has he?

Mr. EHRLICHMAN. Yes, sir. In the statements which he provided to the U.S. attorney he said that the call came anywhere from 2 days to 2 weeks prior to July 22, the first date of his meeting with Hunt.

Mr. NEDZI. There is a much more firm statement in his affidavit which was July 7, was it not?

Mr. EHRLICHMAN. No, sir, it does not say that. It says about July 7, as I understand it.

You see his problem is, he is going on a minute entry of a CIA staff meeting, as I understand it, which simply says he had a telephone call from me saying Howard Hunt had been hired at the White House. It doesn't say anything about requesting CIA aid. It doesn't say anything about what is to be extended to Hunt or anything of that kind, but he got, in fact, a telephone call from me regarding Hunt's hiring. That meeting, as I understand it, was on the 8th. So he reasoned back from that he must have gotten the call the day before.

Now, I don't know where that memo was when he was making out all these statements for the U.S. attorney. Mr. Colby testified that the general had access to the CIA and its records at the time he was making out the memos for the U.S. attorney.

So I can't account for it. I take it the general can't, either.

Mr. NEDZI. You referred in your statement to a special group to manage and act on the Pentagon Papers and other leak problems and this proposal was discussed with the President and he approved it in general terms on Saturday, July 24. What was the proposal which was approved?

Mr. EHRLICHMAN. The general proposal was that the White House create a very small unit of two or three people whose job it would be to work with the established security people in the various departments and agencies to stimulate them, to require them to report to the President, to ride herd on them, to make sure they were tracking down leaks within their own agencies, and to provide cross-referencing between departments and agencies. It was basically established as a coordinating device.

Mr. NEDZI. Further in your statement you said, in October 1971, Director Helms had a meeting with the President to insure that the President's personal review of the documents would comply in all respects with the law.

What was the problem?

Mr. EHRLICHMAN. Well, that is what I previously explained. The Director was very chary of these documents that he was turning over to the President on the declassification project. This has nothing to do with leaks.

Mr. NEDZI. I understand.

Mr. EHRLICHMAN. Somehow or another they would get into hands of staff or individuals.

It was on this occasion——

Mr. NEDZI. Was that illegal?

Mr. EHRLICHMAN. The Director indicated there were some things there that should not be distributed outside the CIA, except to the President personally. That is what he——

Mr. NEDZI. As a matter of law?

Mr. EHRLICHMAN. I gathered that. That is my impression.

Mr. NEDZI. Are you aware of any such law?

Mr. EHRLICHMAN. No, sir; I am not. But the Director was very clear on this. He said it was his obligation as Director of the Agency to make very clear to the President what the ground rules would be.

And that is what he did do. And then he also took the occasion to talk about the general subject of declassification.

Mr. NEDZI. Did he talk about the law?

Mr. EHRLICHMAN. I am not so sure he read the law to the President so to speak. I think what he did was indicate to the President what his desires were with regard to these documents being close held, and the President certainly acquiesced and said he had no intention of letting anybody else read them.

Mr. NEDZI. I understand that. That is all extra legal. I don't see where the law comes in.

Mr. EHRLICHMAN. Well, my impression was, and I am not a student of this law, my impression was that the Director was resting this on legal inhibitions.

Mr. NEDZI. The statement doesn't make sense to me, and you are not helping at this point.

Mr. EHRLICHMAN. Well, I am sorry. I am at a disadvantage because I really don't know much about this law. I have consistently taken the Director's word as doctrine as to what he could or couldn't do, and really have not had any occasion to get into it.

Mr. NEDZI. You mentioned that the CIA receives dozens and dozens of requests and instructions. What is the procedure in handling these requests and instructions?

Mr. EHRLICHMAN. I don't, Mr. Chairman.

Mr. NEDZI. How do you know there were dozens of requests and instructions given from the White House?

Mr. EHRLICHMAN. I read Mr. Helms' testimony, for one, over in the Senate subcommittee, and just from sort of being around I was aware of the fact that the NSC constantly tasked the CIA to perform various overseas undertakings.

Mr. NEDZI. You don't know how they went about it or what the procedure was?

Mr. EHRLICHMAN. No, sir, I do not.

Mr. NEDZI. You mentioned that there were well-established channels for negotiating how a request might best be handled. You yourself never used those channels?

Mr. EHRLICHMAN. No, sir, other than the limited experience that I had here with General Cushman and Director Helms on these occasions. That is really the only contact I have had with the Agency.

Mr. NEDZI. When the Hunt problem was drawn to your attention, and General Cushman asked that the CIA be relieved of any obligation to render him any further support, what did you do?

Mr. EHRLICHMAN. Beyond that, nothing.

Mr. NEDZI. Well, I thought your response to him was that you would take care of it.

Mr. EHRLICHMAN. No, sir. I said by all means, you go ahead and cut him off.

Mr. NEDZI. You didn't contact Mr. Hunt at all?

Mr. EHRLICHMAN. No, sir.

Mr. NEDZI. You had no interest in what he might be up to?

Mr. EHRLICHMAN. I had a passing interest, but that was all. He wasn't doing anything for me. I was under the impression that he was doing a research project on the Pentagon papers. That is all I knew him to be doing. And it didn't seem to me he had any business in bothering the CIA if that was what he was doing. You see, Mr. Chairman, this is one of probably, I don't know, a dozen of these a month where I will get a call from a Cabinet officer saying "Listen, I'm having a problem with your Mr. So-and-So at the White House who is over here moiling around in my bureau of such and such."

And I would say, "Well, Mr. Secretary, if that is a problem for you, why don't you just give orders to your people to discontinue and send him over to see me?" And sometimes they would come in and see me and sometimes they wouldn't. But I was a kind of a buffer against overreaching by the White House in departments and agencies. This was not an unusual kind of a phone call for that reason.

Mr. NEDZI. You said that you had met Mr. Hunt just one time?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. You never saw him prior to that day, July 7, nor subsequently?

Mr. EHRLICHMAN. No, sir.

Mr. NEDZI. What was the purpose of his meeting with you?

Mr. EHRLICHMAN. It was an introductory meeting. Mr. Colson brought him around to introduce me to him. And to talk a little bit about this job he was going to be doing in analyzing the Pentagon Papers and maybe doing some writing about them.

Mr. NEDZI. Why should he be coming to you?

Mr. EHRLICHMAN. I think probably because Mr. Colson and I had had a number of conversations about the Pentagon Papers problem. And we were right in the middle of it at that point in time. There were a lot of questions being asked about them and about Ellsberg and about—we were right in the middle of the lawsuit thing. We were working with Mr. Martian of the Justice Department on that. Mr. Colson and I were both working with him on that. It was natural he would bring him by and say here is a new fellow I am bringing aboard, he is going to be working with us on this, and this is what I charged him with doing.

Mr. NEDZI. Did he create an impression on you?

Mr. EHRLICHMAN. No, really not. Very bland sort of fellow.

Mr. NEDZI. To whom was he responsible?

Mr. EHRLICHMAN. At that time he was responsible to Mr. Colson.

Mr. NEDZI. Did Mr. Colson hire him?

Mr. EHRLICHMAN. I believe so, yes.

Mr. NEDZI. How do you happen to recall this particular meeting on July 7—it was on July 7?

Mr. EHRLICHMAN. It is in my log. I have a log of meetings held in my office, and it is there. In casting back my recollection, I had some recollection of the meeting refreshed by my log.

Mr. NEDZI. The discussion you had at that time with Mr. Hunt involved what subject matter?

Mr. EHRLICHMAN. It involved the question of the accuracy and completeness of the Pentagon papers. There was at that time in cur-

rency a belief in the Government that only a percentage of the operative documents, the pertinent documents on the subject matter had been included in the Pentagon papers, and that it had been a highly selective job of collection. One of his jobs was going to be to dig in and see if he could determine whether or not that was the case, and if so, whether or not we should go public with the fact that the previous administration had done a highly selective editing job in putting together this history.

Mr. NEDZI. Did you give Mr. Hunt any instructions?

Mr. EHRLICHMAN. No, sir, not that I can recall.

Mr. NEDZI. Did you give Mr. Colson any instructions?

Mr. EHRLICHMAN. With relation to Mr. Hunt?

Mr. NEDZI. With relation to the whole problem.

Mr. EHRLICHMAN. I believe not. Not at that time.

Mr. NEDZI. Mr. Ehrlichman, you say in your statement you have to rely upon the committee to find the truth.

Here is the kind of situation that the committee finds itself in. On the one hand, we have the sworn testimony of General Cushman saying that you had called him on or about July 7. The CIA memorandum indicating that at a staff meeting he mentioned you had called him.

We have a transcript of the meeting which transpired between Mr. Hunt and General Cushman in which your name has been mentioned. And there is a call to you to discontinue this aid.

On the other hand, we have your statement that you can say neither yes nor no to this. What do you suppose we, as reasonable men, have to be led to believe?

Mr. EHRLICHMAN. Mr. Chairman, it is actually a matter of moment to me that you are led to the truth, but it is not a matter of particular moment to me what it is that you find.

I don't feel that the fact—let's assume *arguendo* that the general is absolutely correct in his recollection, then so be it. I don't have any problem with that hypothetical basis assuming that is what your finding was. The only thing I am trying to do here is to tell you accurately and precisely the state of my recollection, and to aid you to the extent that I can by bringing you surrounding circumstances that I think corroborate my absence of any recollection of the call having been made, but in all candor, Mr. Chairman, I don't stand or fall on your finding here, and I don't mean to contend for a particular outcome. I think it is incumbent on me to bring you everything I know about this, and everything I can recollect, and everything I can find in the way of collateral matters that bear on it, and then abide.

Mr. NEDZI. The tone of your statement, Mr. Ehrlichman, however, indicates another conclusion, and that is that you are seriously concerned to the point of impugning General Cushman's integrity.

Mr. EHRLICHMAN. Well, here is my problem, Mr. Chairman, frankly.

Mr. NEDZI. You are going to suggest you haven't impugned his integrity?

Mr. EHRLICHMAN. Let me tell you my problem. It is I have an absence of recollection of any such phone call taking place. Now, that standing all by itself, absent my advancing to you any circumstances, obviously is an untenable situation. It is suspect in and of itself. So I

have advanced to you a number of circumstances that I think do impugn the general's recollection.

Now, I don't impugn him. The circumstances impugn him, in my view.

In all candor, again, I don't stand or fall on whether that phone call is ultimately determined to have come from me; as I see it. There is no culpability in that in and of itself.

So all I can do is be as honest with you as I know how to be in saying I don't recall the call. And, as I say, abide.

I have no interest in the outcome, so to speak. I have no motive one way or the other, except to give you another point of view on this. It would have been easier from my standpoint to just come in here and say, well, if that is what the general said I don't have anything to add to that. But that wouldn't be the complete truth.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. Mr. Chairman. In view of the fact there is a basic contradiction in your testimony and that of General Cushman's and we will encounter other contradictions in the testimony, the record, of course, will suggest a lack of credibility on the part of one of the two witnesses involved in this instance. Would you, therefore, for the sake of enhancing your credibility, be willing to take a polygraph test?

Mr. EHRLICHMAN. I don't know. I would want to take advice on that.

As I say, I don't view this as a test of my credibility or the general's. I don't mean to create a confrontation of that kind here. I suppose that if I were really smart, I wouldn't even raise the subject, because it doesn't matter in the ultimate whether I made the call in the first instance or not. And so maybe the really smooth thing for me to do would have come in—

Mr. NEDZI. There may be a different conclusion in other minds on that point, Mr. Ehrlichman.

Mr. EHRLICHMAN. Well, I can't conceive how in any way it could make any difference. But maybe I miss the point.

Mr. SLATINSHEK. Mr. Ehrlichman, could you confer with counsel and decide as to whether or not you would be willing to submit to a polygraph test on the questions confronting you?

Mr. STRICKLER. Counsel on the record will state I have had considerable reading as to the reliability of polygraph tests. I have been in the district attorney's office for 8 years. I do not consider them as being reliable indications of whether a person is or is not telling the truth.

Mr. SLATINSHEK. That is a matter of opinion, counsel.

Mr. STRICKLER. I know it is. I base my judgment on my opinion, Mr. Slatinshek.

Mr. SLATINSHEK. Will your client tell the committee what he would like to do in respect to the question raised here?

Mr. STRICKLER. My client is going to consult both my senior partner and me on the subject. We will certainly discuss this among ourselves and let the committee know.

Mr. HÉBERT. This is not an origination of the committee about the polygraph test. This is injected in the committee by other witnesses who volunteered. In my opinion, I share the counsel's opinion maybe

as to the value. It is not us that injects this. Witnesses have injected it and suggested a polygraph test.

Mr. EHRLICHMAN. I see.

Mr. HÉBERT. May I ask one question?

Mr. NEDZI. Certainly, Mr. Chairman.

Mr. HÉBERT. Mr. Ehrlichman, on page 4 at the top of the page, "I reported this conversation to John Dean." This is in reference to your conversation with General Cushman. "On January 5-6, I phoned General Cushman and said," and then you quote, this is under quotes.

Mr. EHRLICHMAN. Yes, sir.

Mr. HÉBERT. How are you able to give—

Mr. EHRLICHMAN. There is a recording of that conversation.

Mr. HÉBERT. You did record it?

Mr. EHRLICHMAN. Yes, sir.

Mr. HÉBERT. This is a direct quote. You certainly don't have that from memory, as your recollection is bad in other areas?

Mr. EHRLICHMAN. That is correct.

Mr. HÉBERT. This is a taped conversation?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Mr. Ehrlichman, how was the meeting between Mr. Haldeman, Mr. Helms, and General Walters arranged? This moves on to the next subject.

Mr. EHRLICHMAN. As I recall, I was told by Mr. Haldeman or his office, and I am not sure which, that the President wanted me to sit in this meeting. I don't know—I really have no personal knowledge of the inception of the meeting other than that.

Mr. NEDZI. And at that time you say that the President intended to require a full, vigorous FBI investigation.

Did Mr. Haldeman say that or did the President tell you that?

Mr. EHRLICHMAN. No; I think at that time Mr. Haldeman said that. I had no conversation with the President about the subject matter of this meeting until afterward.

Mr. NEDZI. No conversation with anyone?

Mr. EHRLICHMAN. I say no conversation with the President with regard to his views of the content of this meeting until after the meeting had been held.

Mr. NEDZI. With whom did you have conversations prior to the meeting?

Mr. EHRLICHMAN. I believe I had a very brief conversation with Mr. Haldeman prior to the meeting.

Mr. NEDZI. What was discussed at that time?

Mr. EHRLICHMAN. I think he told me just very generally the purpose of the meeting.

Mr. NEDZI. Which was?

Mr. EHRLICHMAN. I am not sure that I can give you any very specific recollection. My general recollection is that Mr. Gray was asking for help or instructions or knowledge with regard to whether or not his proceeding to investigate the surrounding circumstances of the Water-gate would jeopardize the integrity of the Agency.

Mr. NEDZI. How was that information obtained?

Mr. EHRLICHMAN. Well, as I say, I have no personal knowledge of the events that went before. I heard since that Director Gray imparted his concern to Mr. Dean, who, in turn, told Mr. Haldeman, who, in turn, talked to the President about it.

Mr. NEDZI. Did you talk to Mr. Dean at all?

Mr. EHRLICHMAN. I am sure I did not prior to this meeting.

Mr. NEDZI. You didn't talk to him about anything concerning Watergate?

Mr. EHRLICHMAN. Oh, I am sure I did; yes, indeed. But I mean about the purpose of the meeting.

Mr. NEDZI. What did you discuss with him?

Mr. EHRLICHMAN. Mr. Dean?

Mr. NEDZI. Yes.

Mr. EHRLICHMAN. Oh, with relation to Watergate?

Mr. NEDZI. Yes.

Mr. EHRLICHMAN. A whole host of things. At that particular time-frame there was a question about Howard Hunt's status in the White House. There was a question about——

Mr. NEDZI. What was his status in the White House?

Mr. EHRLICHMAN. He was a former employee, but there was confusion in the records as to when he had actually left. There was a problem, I can recall the meeting because there were press inquiries as to when Howard Hunt specifically left the White House and had gone off the payroll. We had the staff secretary in, and Mr. Dean, and some others, with one of the press people, White House press people, to go over the employment records and try and determine when he had actually terminated. We had continued——

Mr. NEDZI. Did you recall Howard Hunt at that time?

Mr. EHRLICHMAN. I am not sure that I did. Well, I can't answer that. I don't recall whether I did or not.

I think he had been sufficiently identified to me by the conversations and all that, but I certainly placed him.

But as recalling back to my meeting with him, I am not sure that was in my mind.

And then Mr. Dean and I had a series of conversations with regard to the disposition of the contents of Hunt's safe which was still in somebody's office in the White House.

Mr. NEDZI. What was the controversy there, if any?

Mr. EHRLICHMAN. Well, the question there was whether or not the contents should be turned over to the FBI, and, if so, under what circumstances. And there were a series of conversations on that.

Mr. NEDZI. How was that resolved?

Mr. EHRLICHMAN. That was resolved by turning over the bulk of the contents to the regular FBI agents in the Washington Field Office, and a manila envelope full of material to Director Gray directly.

Mr. NEDZI. Did you have any conversations with Director Gray?

Mr. EHRLICHMAN. I was present at a meeting which Mr. Dean had with Director Gray where that was turned over.

Mr. NEDZI. That particular subject matter?

Mr. EHRLICHMAN. Yes.

Mr. NEDZI. Was there any conversation with you and Mr. Dean with respect to CIA involvement in this instance?

Mr. EHRLICHMAN. Yes; there was.

Mr. NEDZI. Prior to June 23?

Mr. EHRLICHMAN. That would have been after this meeting with Walters and Helms.

Mr. NEDZI. That is the June 23 meeting?

Mr. EHRLICHMAN. Yes, sir——

Mr. NEDZI. Nothing prior to that?

Mr. EHRLICHMAN. Is that the date?

Mr. NEDZI. Our records indicate it was the 23d of June.

Mr. EHRLICHMAN. All right.

Mr. NEDZI. You had not talked to Mr. Dean about CIA involvement prior to that time?

Mr. EHRLICHMAN. I don't recall doing so, Mr. Chairman.

Mr. NEDZI. Was there any speculation by you as to who was to blame for the Watergate break-in?

Mr. EHRLICHMAN. Yes, sir. I think there was continuous speculation on that question.

Mr. NEDZI. What was it?

Mr. EHRLICHMAN. Well, at various times it was different.

I didn't have an informed guess at this particular juncture, and I certainly considered the possibility of CIA involvement as at least reasonable speculation in view of the identity of the burglars who had been captured and jailed.

Mr. BOB WILSON. Mr. Chairman.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. Mr. Ehrlichman, in recalling that meeting of June 23 which—the date seems to be pretty well established—you state Mr. Haldeman asked you to attend the meeting and said the President wanted you to sit in.

Do you recall the conversation as to the subject of possible covert activities in Mexico being a problem that ought to be explored with the CIA?

Mr. EHRLICHMAN. Yes, I do, Mr. Wilson.

Mr. BOB WILSON. Mr. Haldeman doesn't remember Mexico was the subject. He thought somehow it involved the CIA's past activity with the Bay of Pigs. But you remember Mexico?

Mr. EHRLICHMAN. I remember both of them being mentioned.

Mr. BOB WILSON. Do you remember any statement that might have been made that the President was concerned about the Mexican covert actions being revealed by FBI investigation?

Mr. EHRLICHMAN. No; not in those terms. I don't.

I don't think it came up as being the President's concern. I think the way it came up was—I think it was in the papers at that time—or at least it was around, sort of known that this money these burglars had had had come through Mexico, or Florida, or somewhere. I think it was mentioned as "for instance."

Mr. BOB WILSON. Do you recall—

Mr. NEDZI. Mentioned by whom?

Mr. EHRLICHMAN. I don't know, Mr. Chairman. I can't recall.

Mr. NEDZI. It had to be either you or Mr. Haldeman.

Mr. EHRLICHMAN. Well, I don't know that. It could have been discussed by any one of the four of us as far as I am concerned as a "for instance," as the Bay of Pigs was.

I think there was an effort here just to define a generic category of CIA activities that were not directly related to the Watergate.

Mr. NEDZI. What was the President's concern as you understand it?

Mr. EHRLICHMAN. Well, later—and this would have been after the Fourth of July when I talked to him about this—his concern was both specifically the Bay of Pigs, because there was Cubans involved in this thing—

Mr. NEDZI. At that time?

Mr. EHRLICHMAN. Sir?

Mr. NEDZI. After July 4?

Mr. EHRLICHMAN. Cubans were in jail.

Mr. NEDZI. I understand.

Mr. EHRLICHMAN. They were the burglars.

Mr. NEDZI. The President was concerned about the Bay of Pigs involvement after July 4?

Mr. EHRLICHMAN. As one of a number of examples that he used in talking with me about it. And he said, OK, basically, the substance of the conversation was, OK, if General Walters and the folks at the CIA say that there is no danger of uncovering something here for publicity—they say we are not going to have leaks through the FBI on this—OK, I will abide that. And we will go ahead with the investigation. But he said I must tell you I am not totally satisfied they are right on that.

I can recall him mentioning specifically the fact that these burglars were Cubans, and he knew of his own knowledge the Cuban community had been active in the Bay of Pigs. And he said you just don't know where this is liable to lead.

Mr. NEDZI. Despite the assurances given to him by Helms and Walters?

Mr. EHRLICHMAN. Yes; and I've got the distinct impression the President was operating on his own intuition, and perhaps on an independent source of information.

Mr. NEDZI. Did you have any information as to what was involved?

Mr. EHRLICHMAN. No, sir.

Mr. NEDZI. Or any suggestion of any kind?

Mr. EHRLICHMAN. No.

Mr. BOB WILSON. Going back to the June 23 meeting, do you recall either Mr. Helms or General Walters making the statement at the meeting that in their opinion there was no CIA involvement? Was it clearly established in your mind there was no CIA involvement in the Mexican operation?

Mr. EHRLICHMAN. In the Mexican operation; no, sir. It was not flatly stated.

Mr. BOB WILSON. Neither one of them said that there was really no CIA involvement in Mexico, that any possibilities of covert activities of the CIA in Mexico might be uncovered by an FBI investigation?

Mr. EHRLICHMAN. That is the point. That is the one thing they didn't say flatly no to.

Mr. BOB WILSON. Another statement was made, Mr. Haldeman is supposed to have said at that meeting despite that, you go to Pat Gray, and you tell Pat Gray the White House thinks there is going to be a possibility of uncovering covert actions, therefore we ought to go easy on the FBI investigation in Mexico. Is there any recollection of that sort of conversation?

Mr. EHRLICHMAN. No, sir; that is not my recollection of the conversation. I think they were categorical on the subject of CIA involvement in the Watergate itself. But they were not on the possibility of FBI investigation uncovering some unrelated CIA covert or other operation.

And that is why, as I recall it, it was suggested that they have personal contact with Pat Gray——

Mr. BOB WILSON. But the purpose of General Walters going to see Pat Gray was to tell him that there was a possibility of covert activity?

Mr. EHRLICHMAN. Tell him whatever there was. I must say it was not spelled out for us in any detail what it was.

Mr. BOB WILSON. This is a personal matter involving General Walters and it is conjecture on your part, I would imagine. But General Walters was well acquainted with the President because he had been his interpreter in various previous activities, and so forth.

Is there any feeling on your part that General Walters was trying to help the President out of a tough spot, and going to try to prevent any FBI investigation into the Mexican situation? Would you conjecture that?

Mr. EHRLICHMAN. I certainly didn't get any flavor of that from that contact, and I have known General Walters for a long time, since 1969—not so terribly long—but I have worked with him.

And my impression of him is he will tell you exactly what he is trying. I have worked with him in setting up trips for the President. He has always been very blunt and very forthcoming with me where he has disagreed with me or thought he saw a better way of doing things.

That doesn't jibe with my impression of General Walters——

Mr. BOB WILSON. OK.

Mr. EHRLICHMAN [continuing]. As an individual.

Mr. BOB WILSON. Those are all the questions I have, Mr. Chairman.

Mr. NEDZI. I didn't understand your last statement, what doesn't jibe?

Mr. EHRLICHMAN. The suggestion Mr. Wilson made that perhaps he would deter out of accommodation or try to go along with a premise or something of that kind, where he himself didn't believe in it. That is foreign to my view of his makeup.

Mr. NEDZI. In referring to the reason for the meeting you said that it was not spelled out for us.

What was not spelled out for you?

Mr. EHRLICHMAN. Well, speaking for myself, I did not have any detailed briefing on the purpose of the meeting. Oh, you mean my response here?

Mr. NEDZI. Yes.

Mr. EHRLICHMAN. Oh, oh.

Their concerns were not spelled out. In other words, they didn't say we have 11 agents in Mexico City, and 3 in Cuernavaca, and if the FBI gets into this they might uncover a money laundry we are operating in Tia Juana. None of those kinds of specifics were mentioned at all. It was just that we got very clear responses to other questions, and an equivocation on this subject sufficient that we felt there was a prima facie need not for them to tell us, for them to get together——

Mr. NEDZI. Why not?

Mr. EHRLICHMAN. This isn't our business, Mr. Chairman. The last thing I want to do is get into an evaluation which really they have to make with Mr. Gray. Our only purpose in that meeting, as I saw it, and in retrospect, was to get the two of them together if there was any reason for them to get together. We had an FBI Director over

there who was saying, as I get it, "How far should I go here?" So the President said to Bob Haldeman, "Look, talk to Helms and Walters, and see if there is any reason why Gray should be concerned, and, if so, get them together." And that is really all we did.

Mr. NEDZI. Well, in light of your high regard for General Walters, do you have any comment to make about his memorandum of June 28, 1972, when he states in it that he asked, speaking of Mr. Haldeman, what the connection with the Agency was and the Director repeated there was none. Haldeman said the whole affair was getting embarrassing and it was the President's wish Walters call on FBI Director Patrick Gray and suggest to him since the five suspects had been arrested that this should be insufficient and that it was not advantageous to have the inquiry pushed, especially in Mexico, and so forth.

Mr. EHRLICHMAN. Well, about all I can do is take those references and tell you my recollection as to each of them, Mr. Chairman.

I think the sequence, for one thing, is wrong. In point of fact, the inquiries were made and the responses given before they were asked to get together with Director Gray.

Now, my impression of the meeting—

Mr. NEDZI. Why would that be in light of the President's mandate to Mr. Haldeman, which everybody concedes at this point that Walters go to Gray and express these concerns to him?

Mr. EHRLICHMAN. As I understand it, and here again it was not given to me so I am giving you only my impression secondhand, but my impression is it is a conditional mandate. It is, if there is in fact a possible problem for the Agency, then they should get together.

As I say in my statement, I think in retrospect if General Walters had said, "Look, there isn't any problem here, we haven't a thing to worry about, not a thing to fear, and I don't know of any problem we could have." That would have been the end of it. At least I wouldn't have seen any reason for him to go to talk to Director Gray.

Mr. BOB WILSON. He clearly states in his affidavit, Mr. Ehrlichman, the White House directed him to say to Mr. Gray that the White House was concerned, as though he didn't feel there really was any reason for concern. As a matter of fact, the next day after he returned to the office of the CIA, he called Pat Gray and said there is no—I can tell you with assurance there is no CIA involvement?

Mr. EHRLICHMAN. But notice in the transcript of the Senate proceedings, before he did that he went back and he checked with all his regional people. That is an important fact. He said, I don't keep track of these things, and neither does Director Helms. And it is pretty obvious to me from his overall testimony he wasn't in any position to reassure us categorically on this occasion because we were hitting him cold, for one thing. He went back and checked with his regional people. The sidewalk res gestae, so to speak, I think is of some importance, because Helms and Walters leave my office, they go out and stand on the sidewalk and talk about it, and Helms says to him, "look, you tell Gray if he does stumble on any of our operations in Mexico he is to use our standard coordination procedure," which I think has to argue that their frame of mind at the time in the res gestae was there was some possibility. It wasn't until later he pinned it down with the regional guys, and he didn't write the memo until 3 days after that.

Mr. SLATINSHEK. Mr. Chairman. At this point the testimony we received from Helms on the point you made here is entirely in a different context. Helms' admonition to Walters as they left your office and Walters was on his way to Mr. Gray was to point out he would not go as far as he was directed to go in the meeting but should limit his admonition to Pat Gray along the lines of the understanding that was existing between the Agencies that if they do come across something, and that should be the limit of his admonition, and not to preclude any investigation. I would like to ask for the record at this point something very significant.

General Walters had been with the Agency approximately 6 weeks at this point, and would not be presumed to have known anything really fundamental about the Agency. It was Mr. Helms that should have been presumed to know that. And Mr. Helms was at the meeting and Mr. Helms stated before this committee that he stated categorically that no Mexican operations were involved.

Mr. EHRLICHMAN. All I know is what he testified to the Senate subcommittee, and over there he said, "I don't keep track of these things on a regular basis, I will have to go back and check." As far as this business——

Mr. NEDZI. What did he say in your meeting?

Mr. EHRLICHMAN. Very little, as I recall, Mr. Chairman. I don't think he or I did very much talking at all in that meeting. I think he was the one who gave very flat assurance that there was no CIA involvement in the Watergate break-in itself. I can't recall anything else specifically that he said, except that after Mr. Haldeman said, after we had gone through this whole sequence, Mr. Haldeman said to the general, well, I think you better go have a meeting with Pat Gray, the Director said something to the effect, well, if that is the President's request under the circumstances, I think you better go, General, or Vern, or whatever he called him.

Mr. NEDZI. Wasn't that a reasonable response?

Mr. EHRLICHMAN. I think it was entirely reasonable and consistent with everything that had happened at the meeting.

Mr. NEDZI. Was there any suggestion on Helms' part that there was a Mexican involvement here?

Mr. EHRLICHMAN. I can't say that he personally spoke to it. He certainly acquiesced in the indications that we got from the general by his silence, if nothing else.

Mr. NEDZI. Here again, don't you think there is something to the idea that in effect you have two subordinates coming in and they are being issued an order to go to see somebody?

Mr. EHRLICHMAN. Sir, that was not my relationship, at least with Director Helms. We were, I think in both our eyes, we were peers. We had worked on these other things together.

I don't think he ever felt that anything that I put forth to him was an instruction to be blindly followed without discussion.

Mr. NEDZI. Yet Mr. Haldeman says in his testimony that one of the purposes of the meeting was, and I quote, "to request Walters to meet with Acting Director Gray of the FBI."

Mr. EHRLICHMAN. I can only speculate on this, because, as I say, I was not in the inception of the meeting. You had an FBI Director over there who was asking a lot of insistent questions, as I gather.

Mr. NEDZI. Did you know this of your personal knowledge?

Mr. EHRLICHMAN. No, sir, I don't believe I did before the meeting. But, in trying to comment on your question, from what I have heard recently I take it that that was the situation. Now there is one of two ways that you turn Director Gray off, so to speak. One is for General Walters to go and sit down with him and say, "Look, here are the facts."

Mr. NEDZI. Why did General Walters have to do that? Why couldn't somebody in the White House do it?

Mr. EHRLICHMAN. I say that is certainly another alternative, or for Director Helms to go would have been a third alternative.

Mr. NEDZI. Was there any reason for Gray not being a party to this meeting in view of the fact that it did concern him as you indicated?

Mr. EHRLICHMAN. I don't know. As I say, I didn't organize the meeting or who was going to attend. I don't know what the President's thinking or Bob Haldeman's thinking was on who ought to be there. As a matter of fact, in looking back at it, I am not quite sure why I was there.

Mr. NEDZI. What was mentioned about the Bay of Pigs in the meeting?

Mr. EHRLICHMAN. I can't recall. I imagine something to the effect the burglars were Cubans, and that the stories were in the papers about the possible relationship or the fact that they had all been participants or some had been, or something. I can't recall, Mr. Chairman.

Mr. NEDZI. What were Helms' and Walters' response to that?

Mr. EHRLICHMAN. I think Helms' response was basically negative on that. It was a little touchy, as I recall, but I may just be reading something into that, because I have found him generally touchy on the subject—

Mr. NEDZI. Would you define more specifically what you mean by "touchy"?

Mr. EHRLICHMAN. Well, a little defensive. A little—not terribly willing to dwell on the subject long. He moves off of it. We got into this declassification business, and I found, I had known it before, it is a sore point with him.

Mr. NEDZI. Did he create the impression this was the cause of concern because of the Watergate?

Mr. EHRLICHMAN. No, my impression was he rejected that out-of-hand.

Mr. NEDZI. So, as I understand, the conclusion reached by you at that time was that the only possible involvement would have been with respect to the Mexican aspects.

Mr. EHRLICHMAN. No, sir, because I don't think there was any effort to be exclusive in this list of examples, or in the topics that were discussed.

I didn't know what the various CIA operations might be. I certainly didn't consider that we had eliminated all other possibilities.

Mr. NEDZI. Didn't Mr. Helms and/or General Walters state there was no involvement in Watergate?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. They said there was no involvement as far as the Bay of Pigs is concerned?

Mr. EHRLICHMAN. Yes, I think Mr. Helms made that clear.

Mr. NEDZI. So what is left?

Mr. EHRLICHMAN. Well, I don't know what is left. I didn't try and close all the doors, nor did anybody in the meeting.

The general category that was being discussed was CIA operations unrelated to the Watergate, which is as broad as you know everything else they were doing.

Mr. NEDZI. Was anything said in the meeting which would suggest something other than the Mexican aspects?

Mr. EHRLICHMAN. I don't recall. I really don't. I know the general subject was very broad and not specific.

Mr. NEDZI. Do you recall Mexican aspects being specifically mentioned?

Mr. EHRLICHMAN. Yes, I do.

Mr. NEDZI. But you don't know who raised the point?

Mr. EHRLICHMAN. No, sir, I don't.

Mr. NEDZI. Can you speculate as to why Helms and Walters may have wanted to raise this point?

Mr. EHRLICHMAN. Well, without checking, I don't know what was in the papers, say, that day or the day before, but my impression is that we were sort of raking to the news of the day. It may have been something Gray told something, I don't know.

Gray and Helms had had a conversation the previous day according to Helms' recent testimony. So maybe they talked about it, I don't know.

Mr. NEDZI. What was your relationship with John Dean?

Mr. EHRLICHMAN. He was the White House counsel; I was the former White House counsel. We worked together on problems, particularly problems of substance that I had, where there were legal issues involved that I needed assistance on.

Mr. NEDZI. At the time your meeting concluded, what was your understanding of what General Walters was supposed to do?

Mr. EHRLICHMAN. He was going to go and talk to Pat Gray.

Mr. NEDZI. Was he instructed as to when this should be done?

Mr. EHRLICHMAN. No, I don't think he was instructed. I think he said——

Mr. NEDZI. Was he requested to do it?

Mr. EHRLICHMAN. I think he said, "I will see him right away. I will see him as soon as I can."

Mr. NEDZI. And at that time he called from your office?

Mr. EHRLICHMAN. I have a sort of a visual image recollection of seeing him standing out at the phone in my outer office making a phone call. Now whether it was to Gray or somebody else, I don't know. I think it was to Gray.

Mr. NEDZI. You say that you also informed Dean of the meeting.

Mr. EHRLICHMAN. Yes.

Mr. NEDZI. When did you do this?

Mr. EHRLICHMAN. I can't recall when I did it. It would have been shortly after, I would think.

Mr. NEDZI. Could you tell us what you mean by "shortly after," generally speaking?

Mr. EHRLICHMAN. I just don't have a good recollection, Mr. Chairman. I don't know whether this was the same day or the next day, I just don't know.

Mr. NEDZI. Was it within hours or minutes?

Mr. EHRLICHMAN. I say I don't recall. I don't know.

Mr. NEDZI. Why did you call Dean?

Mr. EHRLICHMAN. He was the pivotman in the whole Watergate subject and here we had a situation where you had the FBI and CIA in contact. It was just a piece of information I thought he ought to have. He was kind of a depository of all Watergate information at the White House.

Mr. NEDZI. By whose order?

Mr. EHRLICHMAN. Well, I think by virtue of his position. He was counsel, and he just sort of took that natural responsibility when the thing arose, and continued to follow it out.

The role of the White House counsel has always been, in this administration, to look out for conflicts of interest, look out for improprieties on the part of White House or administration people, to keep track of lawsuits against the Government or against the President, to look out for things involving law enforcement or investigation, things of that kind. It naturally fell in his bailiwick.

Mr. NEDZI. Why was there concern about that at this time?

Mr. EHRLICHMAN. Well, I think the concern at this time was that you had former White House people who were apparently implicated in this thing, and that was implicit right from the second or third day, I guess. And so it was natural that the counsel would be in it.

Mr. NEDZI. Was there any specific order to Dean to function in this capacity?

Mr. EHRLICHMAN. I don't know.

Mr. NEDZI. Not to your knowledge?

Mr. EHRLICHMAN. No; I think to my knowledge it was assumed and implicit right from the beginning.

Mr. NEDZI. You said the President told you Pat Gray had told him there was no CIA objection to the full FBI investigation?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Did you mention to the President what the substance of your meeting with Helms and Walters were, at any time?

Mr. EHRLICHMAN. We may have discussed it on that occasion, which would have been the first week in July. I may have given him my impressions.

Mr. NEDZI. What were they?

Mr. EHRLICHMAN. Well, at that time at least there was some danger to the integrity of the Agency.

It couldn't be very specific, I am sure.

Mr. NEDZI. Now, when the President told you he still personally believed and feared that the FBI investigation might harm the Agency, did he give you any indication of why he believed that?

Mr. EHRLICHMAN. No, sir.

Mr. NEDZI. Did you have any belief or fear that the FBI investigation might harm the Agency?

Mr. EHRLICHMAN. I had no independent fear, Mr. Chairman, aside from what I heard from Helms and Walters at this meeting on this occasion.

Mr. NEDZI. There was no further information received from John Dean at all?

Mr. EHRLICHMAN. Not by me. Not that I recall.

Mr. NEDZI. Had you had any meetings with John Dean subsequent to the 23d of June?

Mr. EHRLICHMAN. I believe so.

Mr. NEDZI. When were they?

Mr. EHRLICHMAN. I can't give you the dates offhand. I think—let's see—I think I met with him—my days of the week are off—I think I met with him just before going to San Clemente, which was, I think, the first of July, something of that kind. I met with him between the 23d and the 1st of July once, or maybe twice, on various subjects.

Mr. NEDZI. Only once or twice during that period of a week?

Mr. EHRLICHMAN. I believe so. I think in those first 2 weeks I met with him a couple or three times the first week and a couple of times the second week.

Mr. NEDZI. At that meeting or those meetings subsequent to the 23d of June, did he discuss with you any meetings with General Walters?

Mr. EHRLICHMAN. Not that I can recall.

Mr. NEDZI. Would you have recalled had he discussed General Walters meeting with him?

Mr. EHRLICHMAN. Well, I saw the testimony of General Walters at the Senate subcommittee and read what he said in the newspapers about his meetings with Dean. I at that time tried to recall any prior knowledge of that set of circumstances, and I don't have it.

Mr. NEDZI. What do you suppose, assuming some truth to the Walters' memos of his conversations with Dean—what do you suppose motivated Dean to respond to General Walters in connection with that?

Mr. EHRLICHMAN. I can only speculate. Mr. Dean apparently at that time had designed a course of action which he felt responded to the situation, and he was in the process of carrying that out.

Mr. NEDZI. Without consultation with anyone else?

Mr. EHRLICHMAN. I can't say. As far as I am concerned, I don't believe he had any consultation with me on it.

Mr. NEDZI. You say you don't believe he did?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Would you not have remembered if he discussed this with you?

Mr. EHRLICHMAN. Yes, sir. I think that is something I would recall.

I do recall imparting to Mr. Dean my impressions of the Helms-Walters meeting. And that impression was that there was in fact a problem between the CIA and the FBI.

Mr. NEDZI. When did you impart that to him?

Mr. EHRLICHMAN. I can't say, Mr. Chairman. I think probably at the time that you asked me about before. It would have been relatively soon after the meeting, but I can't say when.

Mr. NEDZI. Would it have been within an hour?

Mr. EHRLICHMAN. I don't know, Mr. Chairman—I just don't know.

Mr. NEDZI. Don't you think you would have recalled if it were within an hour?

Mr. EHRLICHMAN. I don't think necessarily so.

Mr. NEDZI. Say within 2 days?

Mr. EHRLICHMAN. I am sorry, it has been a long time ago, I just don't remember. I am sure I didn't keep any record of it.

Mr. NEDZI. You referred to the problem of canceling Mr. Gray's meeting.

You stated that you objected to the idea of the staffs of the Bureau and an Agency meeting with Gray, Helms, and Walters. Where did you get the idea the staffs were in the meetings?

Mr. EHRLICHMAN. I don't recall who told me that, it may have been Mr. Dean. I don't know.

But that was the information that I had.

Mr. NEDZI. When did Mr. Dean tell you this?

Mr. EHRLICHMAN. Well, I say it may have been Mr. Dean. I can't be sure. I don't know where that information came from. I was talking to Pat Gray frequently through that period of time——

Mr. NEDZI. How frequently?

Mr. EHRLICHMAN. Oh, a couple times a week. It may be that he told me that he intended to meet with him. I just don't recall.

Mr. NEDZI. Would it surprise you if only Helms and Walters and Gray and his Deputy were to meet?

Mr. EHRLICHMAN. No; because his Deputy was part of the problem.

Mr. NEDZI. You felt he was the source of the leak?

Mr. EHRLICHMAN. That was our very strong suspicion, yes, sir.

Mr. NEDZI. Was it Mr. Helms' source of the leaks?

Mr. EHRLICHMAN. Not the FBI leaks. We were having chronic FBI leaks.

Mr. NEDZI. Why did you urge that Gray meet with Walters on a 1-to-1 basis, and not Helms?

Mr. EHRLICHMAN. Well, somehow out of this meeting on the 23d Walters was the delegate. And I don't recall why. I have a note to the effect that Mr. Helms was out of the country around the 4th of July, and I noticed that in reviewing my notes.

I don't know whether that bears on it or not.

Mr. NEDZI. Well, except this was at the time of the cancellation of the meeting which was scheduled with Mr. Helms, so he couldn't have been out of the country, could he?

Mr. EHRLICHMAN. Maybe I misunderstood your question. I thought your question was why was it Walters was sent from the meeting on the 23d to talk to Mr. Gray.

Mr. NEDZI. I am referring to the time you canceled the meeting between Helms and Gray and urged, according to your statement, that Gray meet with Walters on the 1-to-1 basis. My question is: Why Walters?

Mr. EHRLICHMAN. Well, Walters, I imagine, was the individual that I identified as the delegate from our meeting on the 23d to talk to Gray.

Mr. NEDZI. In any event, even on the 23d Helms was not out of the country.

Mr. EHRLICHMAN. Obviously not on the 23d. But my notes show later he was, as I say. Referring to the date of the 23d, that evolved from the meeting. If we are referring to a later time, I gather that this so-called canceled meeting, which I don't concede was canceled, was at some later date. I read about that in the paper. That is the reason that I referred to it in my statement. And I think that may have been at a time when—well, I just don't know. I won't speculate.

Mr. NEDZI. What was the purpose of your six or seven personal contacts with the Agency to which you referred in your statement?

Mr. EHRLICHMAN. They were the purposes that I referred to in the statement, basically. There was the 1969 Cushman transmittal. There was the declassification project. And I had, I think, three different conferences with Director Helms with regard to that project, plus I think a meeting which involved the General Counsel of the Agency on the same subject.

There was the meeting with Helms and Osborn with regard to the establishment of the White House unit, and advising them of the President's desires.

And then of course this Helms-Walters meeting. And then I had lunch with Mr. Colby on one occasion, which related from the fact that we had gotten acquainted in Vietnam, and it was more as a social occasion than anything else.

And then the final meeting in December between Helms and Colby, and John Dean and me, to talk about the circumstances of Hunt being taken out of the Agency to assist us.

Mr. NEDZI. Within those six or seven personal contacts you have included the total of three times that you asked for CIA aid, according to your statement.

Mr. EHRLICHMAN. That would be the entire list, to the best of my recollection.

Mr. NEDZI. "I said it was not until about a week or so later I understood the President's true concerns."

What were the President's true concerns?

Mr. EHRLICHMAN. Well, as I say in the statement, he remained concerned notwithstanding the assurances that General Walters had given Director Gray, that some unrelated CIA operations might be come upon, and he was not specific with me, but he gave me the strong impression that he was resting upon information over and beyond that received from Gray in the telephone call, where Gray told him about his conversation with General Walters.

Mr. NEDZI. The last page, you said that the President said to the extent CIA had a stake or interest in the outcome of the Mexican investigation, as General Walters indicated the CIA might.

Where did General Walters indicate that?

Mr. EHRLICHMAN. In the meeting with Mr. Haldeman and me. That was my clear impression.

Mr. NEDZI. Did he say that?

Mr. EHRLICHMAN. I am not sure exactly what he said, Mr. Chairman. I can only give you my impression. My impression coming out of that meeting is as I have stated it there, that the CIA had a stake.

Mr. NEDZI. In the course of Mr. Haldeman's testimony it is stated that more information can be obtained from you on the Bay of Pigs.

Do you have any explanation why he would say that?

Mr. EHRLICHMAN. You mean on the handling, or—

Mr. NEDZI. Oh, I know what it is, this is with respect to Hunt not being told about the Bay of Pigs.

Mr. EHRLICHMAN. I am not sure it was as narrow as that. In one conversation that I had with Director Helms with regard to declassification, and the President holding these documents close, he used as an example that a former CIA man like Hunt would love to get into

these documents and dig around them, and he knew Hunt was at the White House or had been at the White House, and he said, "Let's keep those kind of people away from those documents. Let's be sure the President is the only one who sees and uses them."

And that group of documents did include Bay of Pigs documents.

Mr. NEDZI. How long was this first meeting on June 23?

Mr. EHRLICHMAN. That was the only meeting as far as I was concerned. The Walters-Haldeman-me—20 minutes, maybe, something of that kind.

Mr. NEDZI. Then you immediately called Dean afterward?

Mr. EHRLICHMAN. Well, I can't say that, Mr. Chairman. I called him sometime in the not too long interval of time, but I can't tell you when.

Mr. NEDZI. According to Mr. Gray, Dean called him at 1:35 that afternoon to advise Walters was going to come to see him.

Does that square with your recollection?

Mr. EHRLICHMAN. I didn't know that.

Mr. NEDZI. It could be as far as you are concerned?

Mr. EHRLICHMAN. I wouldn't know one way or the other—whether he heard it from me or somebody else first, I don't know.

Mr. NEDZI. You said you did not cancel the meeting, yet Mr. Gray has testified as follows:

Now, at 10:55 a.m., Mr. Ehrlichman called me and I was not available. But at 11:17 a.m., I returned Mr. Ehrlichman's call. And he just very bluntly came right straight out and said, "I want you to cancel your meeting with Helms." I, of course, asked him for what reason? What purpose? And he said, "It is not necessary, there is no reason at all to hold that meeting." And I said to him, "Well, then, who is going to make the decisions as to who is to be interviewed and who isn't to be interviewed?" And he said, "You do." And that was the end of that conversation.

Mr. HEBERT. It was that cryptic?

Mr. GRAY. Yes, sir, as I recall it. It was boom, like this kind of a conversation where I am getting an order to cancel a meeting with Helms.

That is not exactly your version of that conversation, is it?

Mr. EHRLICHMAN. It wouldn't be my recollection of it; no, sir.

Mr. NEDZI. Could it have happened that way?

Mr. EHRLICHMAN. Anything could have happened, Mr. Chairman. I have to give you my best recollection of what happened, and it was what my sense of it was, which was that it was perfectly competent for the Director to have a meeting with the CIA, but I was concerned about his including a lot of other people in it, and specifically the individual we then suspected. And I think what I said to him went to that point.

Mr. NEDZI. He doesn't make any reference to that.

Mr. EHRLICHMAN. I understand.

Mr. NEDZI. From our experience with Mr. Gray, he was a rather meticulous notekeeper, as evidenced by the telephone logs.

Have you had a chance to examine his testimony?

Mr. EHRLICHMAN. No, sir.

Mr. NEDZI. At no time?

Mr. EHRLICHMAN. I don't believe so. Did we see any of his testimony on the Senate side?

Mr. STRICKLER. I don't know that you saw it, but I have a copy of it.

Mr. EHRLICHMAN. I don't believe so.

Mr. NEDZI. How many contacts did you say you had with Gray over this period of time?

Mr. EHRLICHMAN. Over what period, Mr. Chairman?

Mr. NEDZI. The period from June 23 to the end of July.

Mr. EHRLICHMAN. To the end of July?

Mr. NEDZI. 1972.

Mr. EHRLICHMAN. I can't say. I was probably talking to him with a fair amount of frequency at that time, mostly on the phone, although he was coming to my office occasionally.

I was out of the city, I think, a good part of that time, so that our contacts would have been on the telephone.

Mr. NEDZI. Did you ever have a conversation with General Walters with respect to whom he could contact involving this matter, specifically Dean?

Mr. EHRLICHMAN. Yes; I said in my statement that I think we said either at the meeting, or I said in an informal conversation or somehow, that neither Bob Haldeman nor I had the lead responsibility in the White House on this subject, and that regular contact ought to be with John Dean.

Mr. NEDZI. Did you know General Cushman during this period of time?

Mr. EHRLICHMAN. Yes, sir, I knew him in the sense I would recognize him when I saw him.

Mr. NEDZI. Would you recognize his voice if you spoke to him on the phone?

Mr. EHRLICHMAN. I don't know that I necessarily would. I haven't spoken to him on the phone all that much.

Mr. NEDZI. Now——

Mr. EHRLICHMAN. I think perhaps I have spoken to him on the phone three times or four times maybe altogether.

Mr. NEDZI. Were you with the President on July 6, 1972?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Where was this?

Mr. EHRLICHMAN. This was in San Clemente.

Mr. NEDZI. Were you apprised of the telephone call which Clark MacGregor received from Mr. Gray?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. When were you told about that?

Mr. EHRLICHMAN. On that day.

Mr. NEDZI. Shortly after he had received it?

Mr. EHRLICHMAN. My impression was he had received it prior to that day; he was on his way to San Clemente, and I gather he had been asked by Mr. Gray to deliver a message to the President before he left Washington. I may be wrong. He may have gotten the call from Gray after he was out there, but he had just arrived.

Mr. NEDZI. Gray's log discloses that the call to MacGregor was made at 10:47 Washington time, which would be 7:47 California time.

Mr. EHRLICHMAN. Yes—that same day?

Mr. NEDZI. Yes.

Mr. EHRLICHMAN. It is entirely possible. I had the impression from—and I got this from the President, I didn't get it from MacGregor——

Mr. NEDZI. You had not talked with MacGregor?

Mr. EHRLICHMAN. I had talked to MacGregor but not on this subject.

Mr. NEDZI. Not about this telephone call?

Mr. EHRLICHMAN. No, sir, the President told me that.

Mr. NEDZI. When did the President tell you about that?

Mr. EHRLICHMAN. That day.

Mr. NEDZI. Did he tell you before he called Mr. Gray?

Mr. EHRLICHMAN. No, sir, after MacGregor talked to him and after the President talked to Gray on the telephone.

Mr. NEDZI. Did MacGregor talk to the President prior to the President making his call to Gray?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. How do you know that?

Mr. EHRLICHMAN. The President told me.

Mr. NEDZI. Was the call to Gray motivated by the report of Mr. MacGregor to the President?

Mr. EHRLICHMAN. I gather that it was.

Mr. NEDZI. The President told you that?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. What was the purpose of the call to Mr. Gray?

Mr. EHRLICHMAN. He had, as I got it, asked Clark MacGregor to cause the President to call him so that he could discuss with the President this question of an unlimited investigation.

Mr. NEDZI. Whom did you get that from?

Mr. EHRLICHMAN. The President.

Mr. NEDZI. How do you account for the President telling Mr. Gray that he is calling him to congratulate him on the handling of the hijacking by the FBI?

Mr. EHRLICHMAN. I expect they discussed that also. That was very much on his mind at that particular juncture. This whole business of hijacking and death penalties and so on—as a matter of fact, we made a policy statement on that same week on hijacking and had a big press briefing out in California, so I know it was very much in the front of his mind.

Mr. NEDZI. How do you account for Mr. Gray testifying the President's call to him was for that purpose?

Mr. EHRLICHMAN. The President may have very well said that to him.

Mr. NEDZI. The President never raised any other issue?

Mr. EHRLICHMAN. Apparently the President or Gray raised the issue, because they obviously discussed it on that occasion. I don't know who raised it in the course of the conversation, but my impression from the President was he made the call because MacGregor strongly urged him to do so.

Mr. NEDZI. Was there any concern on the President's part?

Mr. EHRLICHMAN. Concern for what, sir?

Mr. NEDZI. With respect to Mr. Gray's concern.

Mr. EHRLICHMAN. Yes, indeed, we discussed it, and that is what I have indicated in my statement.

Mr. NEDZI. What did you discuss?

Mr. EHRLICHMAN. We discussed the President's lingering doubt as to whether in fact there was not some exposure to the Agency, notwithstanding the assurances that Mr. Gray had received.

Mr. NEDZI. Why would he call Mr. Gray?

Mr. EHRLICHMAN. He called Mr. Gray because Clark MacGregor said he had a message from Pat Gray he urgently had to talk with him.

Mr. NEDZI. The call to Gray was not made in your presence?

Mr. EHRLICHMAN. No, sir.

Mr. NEDZI. Did you ever talk with MacGregor about the call from Gray?

Mr. EHRLICHMAN. No; I don't believe so. It may have been made in his presence; I am not sure.

Mr. NEDZI. Do you have any questions, Mr. Chairman?

Mr. HÉBERT. Yes. I just have one question. I am reading from page 13 at the bottom of the page. This is in reference to your conversations with Dean.

Mr. EHRLICHMAN. Yes.

Mr. HÉBERT. The statement, "Later Dean told me he had been in touch with Walters and that the CIA did not believe an investigation would harm their operations." I have emphasis on the next sentence. "I was unaware of Dean's meetings or conversations with Walters regarding use of CIA money for salaries for the defendants until the news reports this month about them."

Now, earlier today you described everything as being thrown into Dean's bailiwick—"bailiwick" is your word. By the description it was thrown into Dean's bailiwick, is the committee to understand Dean was really in charge of the operation? It was up to him to make his own decisions, and to project remedial roads to take, or alternatives? Did he have that type of authority?

Mr. EHRLICHMAN. Yes; he did.

Mr. HÉBERT. He did have that authority?

Mr. EHRLICHMAN. Yes, sir.

Mr. HÉBERT. So then you say "I was unaware of Dean's meetings or conversations with Walters regarding use of CIA money for salaries for the defendants until the news reports this month about them." You do not challenge that Dean could well have had that conversation offering to put the bail money up?

Mr. EHRLICHMAN. I have no reason to challenge it, Mr. Chairman.

Mr. HÉBERT. No reason at all to challenge it, because Dean did have that legality?

Mr. EHRLICHMAN. Yes, sir. All I am doing here is giving you the best of my recollection.

Mr. HÉBERT. That is what I want to establish, that Dean did have this authority, this was his bailiwick?

Mr. EHRLICHMAN. I would have said a suggestion such as this to General Walters would have been ultra vires. I don't mean to imply he had the standing authority to suggest improper or unlawful or illegal acts.

Mr. HÉBERT. He was in position to make offers and to make suggestions or suggest alternatives beyond his authority. He was in a position where he could talk head to head with somebody.

Mr. EHRLICHMAN. Yes, sir.

Mr. HÉBERT. He was in a position where he could have told Walters, or suggested that the CIA use its money for bail and for salaries of the people who had been convicted?

Mr. EHRLICHMAN. I believe so. I think at that period of time Mr.

Dean certainly spoke for the White House. He was understood to speak for the White House and the Justice Department, for instance.

I don't mean by anything I say to imply that anyone in the White House necessarily condoned an improper suggestion or order on his part, but nevertheless he had the apparent authority, so to speak, to undertake head to head contacts of this kind.

Mr. HÉBERT. Well, of course the apparent authority of the White House is the thing that is paramount in everything we get, the acceptance of the people who call from the White House when they speak they speak for the White House. This is our difficulty.

Mr. EHRLICHMAN. And as a matter of fact, as I said in my statement, I designated him to General Walters and said this is our man who is operating in this area. I am not. Haldeman is not. He is. And so it would be a natural thing for General Walters to take that at face value.

Mr. HÉBERT. That is what I want to establish, just how far could Dean go? He was the action man?

Mr. EHRLICHMAN. Yes, sir, he was the action man, and he could go as far as his legs would carry him before somebody said, "By what authority do you do that?"

Mr. HÉBERT. That is correct; that is what I want to establish, because it all revolves around the call of acceptance from the White House.

Mr. EHRLICHMAN. Yes, sir.

Mr. HÉBERT. And what impact and what authority it carries.

Mr. EHRLICHMAN. He was very much an independent contractor in this thing, in the sense people were interested in results, and the results here would have been the disclosure of wrongdoing on the part of anybody in the administration. That was basically what his assignment was, to ferret out wrongdoing and to expose it and to take corrective measures.

Mr. HÉBERT. That description of his position, he did ask the CIA money to be used for bail and payment of salaries, and I don't think by the farthest stretch of the imagination you can say that is rightdoing. He was to ferret out the wrongdoing, and he was doing the wrongdoing to ferret out the rightdoing.

Mr. EHRLICHMAN. That is the basic problem in this thing.

Mr. HÉBERT. I know it is.

Mr. EHRLICHMAN. We had the milkman here souring the cottage cheese, so to speak. It was a closed circuit. There wasn't anybody auditing his books.

Mr. HÉBERT. Nobody auditing his books.

Mr. EHRLICHMAN. That is right.

Mr. HÉBERT. To use your own description, the milkman soured the cream, if this statement is correct.

Mr. EHRLICHMAN. That is right.

Mr. HÉBERT. You do put the finger on Dean?

Mr. EHRLICHMAN. I tried, Mr. Chairman, not to put my finger on anybody on this thing. I am sensitive to the problems of people and their rights. But the relationships between the parties here are not well understood, and I think it is important to develop them as you have.

Mr. HÉBERT. That is what I am trying to develop. I am trying to put the finger on somebody.

Mr. EHRLICHMAN. Well, that is competent for you to do, I would say.

Mr. HÉBERT. I want to establish Dean could and may have done this.

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Mr. Ehrlichman, when did it first occur to you Dean was not behaving properly?

Mr. EHRLICHMAN. Mr. Chairman, it wasn't until the President relieved him of his responsibilities with regard to this whole episode, and assigned it to me, which was March 30 of this year, and then I dropped everything else I was doing and began an inquiry into this thing, and within 2 weeks, I had developed a working hypothesis of this case—certainly not singlehanded. I must say the U.S. attorney was going full steam. The Ervin committee was going full steam, and there were a lot of people in this game by then.

It was not until that 2-week period I began to appreciate his true role.

Mr. NEDZI. You had contacts with him from the beginning of July of 1972 until March 30, 1973?

Mr. EHRLICHMAN. Yes, sir, I did.

Mr. NEDZI. And in the course of those contacts nothing ever came up in your conversations which would create any doubt in your mind?

Mr. EHRLICHMAN. Well, in retrospect, with 20-20 hindsight, I can pick out a few things.

Mr. NEDZI. Would you give them to us?

Mr. EHRLICHMAN. Well, we tried our level best back in the convention days, between the Democratic and Republican conventions—I tried to get a definitive statement on the Watergate published. I thought it would be good politics to get it out, get an exposure, get it all behind us, and move away from it.

In retrospect, I can see where a number of the people who were involved and had a stake in it undoubtedly blocked that effort. We made the effort again——

Mr. NEDZI. How did you make the effort?

Mr. EHRLICHMAN. Well, I talked it up.

Mr. NEDZI. To whom?

Mr. EHRLICHMAN. In a political strategy group that existed, which met a couple of times a week, of which I was a member. I talked to Clark MacGregor about it. I talked to Fred Malek about it over at the campaign.

Mr. NEDZI. Did you talk to the President about it?

Mr. EHRLICHMAN. I talked to the President in rather specific terms about the White House part of it. It would have been a two-leg operation, with a statement about the White House and a statement about the campaign. We did get the statement out about the White House on August 29.

Mr. NEDZI. What was the President's response to your suggestion?

Mr. EHRLICHMAN. He was for it. In fact, he was the one that made the statement on August 29, and he did it in a press conference, so we got half of it done, in a sense.

Mr. NEDZI. What was the half that wasn't done?

Mr. EHRLICHMAN. The Campaign Committee. In looking back, it is hard for me to pinpoint it exactly how it was obstructed or why. From a hindsight standpoint I wish I had pressed harder. I didn't, and I had

a lot of other things to do, and there are all kinds of excuses why you don't do these things.

Mr. NEDZI. What was Dean's function with the Campaign Committee?

Mr. EHRlichman. He was a liaison to the Campaign Committee. He was one of those who was in more or less constant contact with them, and his true role I guess will emerge in the process of the various proceedings that are underway. I don't think I know it, in all candor.

Mr. NEDZI. What did he reveal or disclose as the position of the Campaign Committee on this issue?

Mr. EHRlichman. He didn't. In retrospect, that is one of the landmarks. There was another effort to do the same thing.

Mr. NEDZI. How could that be, if the President wanted to do something, and he is liaison between the President and the Campaign Committee?

Mr. EHRlichman. Well, I understand that.

Mr. Chairman, I have given this a lot of thought, and this was one of those things that I guess I fell between the chairs. Everybody was busy with impoundment—

Mr. NEDZI. You mean it is another one.

Mr. EHRlichman. Yes. Believe me, one of the abiding regrets of my life is going to be I didn't press this thing to an ultimate, final conclusion at the time. If I had, I am satisfied, you know, all this aftermath would never have occurred.

It is one of those situations where your instincts are right, but you just don't take the occasion for the followthrough. Again, the President felt strongly that the strategy to be adopted with relation to the Ervin hearings would be to get out a broad, no holds barred, definitive statement of the whole thing, and he charged John Dean with the preparation of that statement, and he got finessed for weeks with one excuse and another.

Mr. HÉBERT. The word is "finessed"?

Mr. EHRlichman. Yes, sir.

Mr. HÉBERT. I want to be sure you used the right word.

Mr. EHRlichman. He got "horsed," I guess we would say out home. There was one excuse and another. There were reasonable, plausible excuses. The Gray confirmation was going on.

Finally the President just came to the end of his rope, and he said "Send that man to Camp David and don't let him come back until he has this thing written down. I want to see it here on my desk." He did, he sent Dean to Camp David. He was there for 6 days and 6 nights, and he came down from the mountain and there was no tablets. He announced he couldn't write it down. That was the obvious tipoff—

Mr. NEDZI. When was this?

Mr. EHRlichman. This was March 28 that he came down, and so, within 24 hours, the President relieved him and called me in and said "I want to know what is going on here."

Well, now, you can say, you know, why was it March? Why wasn't it February, or why wasn't it December? But in going back through my log of what was really going on during that time, we revamped the executive branch, we fired and hired a lot of people. We got into a fight with the Congress on impoundment. We got into a fight with

the Congress on budget cuts. There was just a tremendous amount going on that was on our plate, so it just took that much time to uncover the thing.

Mr. HÉBERT. The time that intrigues me—I am looking at it very realistically and very practically, where the President really had gotten himself into a bind—is his publicly saying Dean would not be allowed to testify. Now he is backing Dean up in this area, and now when it comes out that Dean is Peck's bad boy, then the public accepts it, he was backing up Peck's bad boy, knowing Peck's bad boy was a bad boy all the time.

Mr. EHRLICHMAN. I see that, Mr. Chairman. When the truth comes out, it is apples and oranges. With Dean testifying back in the Gray confirmation time, that had to do with the basic constitutional question, separation of powers and immunity as counsel. We were having those questions briefed in all good faith. At that moment in time we had no reason as we sat there to suspect that Dean was any more than what we all thought he was.

Mr. HÉBERT. Is that your opinion too?

Mr. EHRLICHMAN. It was my then opinion; yes, sir.

Mr. HÉBERT. You still had confidence in Dean, and the President had confidence in Dean?

Mr. EHRLICHMAN. Yes, sir, that would be in the February months.

Mr. HÉBERT. Then he sent Dean up—

Mr. EHRLICHMAN. The President had a number of conversations with Dean. He jumped on us, he jumped on Bob Haldeman and me and said "Where is that statement?" This would have been back in February.

We said "Mr. President, look, you told us to stay out of this Watergate thing, and we are trying to stay out of it. You are going to have to talk to John Dean and get the flavor of this from him, because he is the manager of this thing." The President had repeatedly instructed us to stay out of it and leave Dean and Kleindienst in it to do the investigation and so on. So the President started to have meetings with John Dean back in February and through the month of March.

The more he talked to him, the more he got a tinny sound. That is what led to him finally saying, you know, go up there and sit down and don't come back until you get this all written out.

Mr. NEDZI. What was Dean telling you and the President during all this time?

Mr. EHRLICHMAN. He was telling us a lot of things. I can recall one meeting, Mr. Chairman, where he was asked why he couldn't get out a definitive statement, and we got responses about the rights of the defendants. They hadn't been sentenced yet. Their cases were still pending before Judge Sirica.

We had confirmations coming up. There were civil depositions that were going to be taken. There was civil liability in the committee that was being contended for in a lawsuit. All these things militated against doing the definitive work. So there was a whole family of excuses, some of which were plausible and perhaps still are plausible.

Mr. HÉBERT. Who brought Dean into the White House?

Mr. EHRLICHMAN. I don't know, Mr. Chairman.

Mr. HÉBERT. He didn't show up one morning just like Topsy?

Mr. EHRLICHMAN. No, he had been at the Justice Department. He

had been engaged in work which put him in contact with the White House. He was John Mitchell's protege. He was working closely with the Attorney General personally. I am sure Mitchell recommended him when the time came and we needed a counsel.

Mr. HÉBERT. And the President made the decision?

Mr. EHRLICHMAN. Yes, I think on recommendation.

Mr. HÉBERT. He didn't clear it with you and Mr. Haldeman?

Mr. EHRLICHMAN. He may well have. I think my impression of Mr. Dean was excellent at that time. I must say he discharged his duties well through 1970, 1971. I don't have a bit of criticism of his professional competence or his ability to do the job, or anything of that kind. If you had asked me in January of this year of my opinion of him, I would have given him a ringing endorsement.

Mr. HÉBERT. You had no indication at that time he might have made the suggestion to use CIA funds to bail out or pay the salaries of the convicted prisoners?

Mr. EHRLICHMAN. That, or any number of other events.

Mr. HÉBERT. Or the amnesty—

Mr. EHRLICHMAN. Clemency?

Mr. HÉBERT. Yes, sir.

Mr. EHRLICHMAN. I have a conversation in which Mr. Dean was involved in clemency at one point.

Mr. HÉBERT. Tell us about that.

Mr. EHRLICHMAN. That was a meeting with Mr. Colson. Mr. Colson was about to go and have a conversation with Howard Hunt's lawyer at Hunt's passionate request. Hunt was feeling that his friend Colson, long time friend, had abandoned him because Colson was not talking to him, wouldn't take his calls and so forth.

There was a specific discussion as to whether or not there was anything that Colson could indicate to him that in any way would make Mr. Hunt feel better. I was under active instructions from the President on the subject of clemency, and had been for some months, that there was to be no discussion of clemency, no tender of clemency, no hint of clemency or Executive pardon or any sort of involvement by the President.

Mr. NEDZI. How did this question arise?

Mr. EHRLICHMAN. I raised it with the President very early, and said that this looked to me to be the kind of thing that sooner or later would be suggested or solicited.

Mr. NEDZI. When was "early"?

Mr. EHRLICHMAN. The month of July, within a month or 6 weeks after this event, as soon as we found out that Hunt and Liddy were involved, I suspected that this question was going to come up, and I took it up with the President when we were out in San Clemente right around the time of this—

Mr. HÉBERT. How did you take it up with the President? Was this born in your mind?

Mr. EHRLICHMAN. Yes, sir.

Mr. HÉBERT. The clemency was projected by you?

Mr. EHRLICHMAN. Yes, sir. I said "Here is one of the issues that sooner or later you are going to have to confront, as I see it."

Mr. HÉBERT. Nobody suggested that to you?

Mr. EHRLICHMAN. No, sir.

Mr. HÉBERT. You suggested that to the President?

Mr. EHRLICHMAN. In the abstract.

Mr. HÉBERT. In evaluating the circumstances?

Mr. EHRLICHMAN. That is right.

Mr. HÉBERT. You said "Mr. President, you will have to face this, they will have clemency——"

Mr. EHRLICHMAN. Not then, somewhere down the line.

Mr. HÉBERT. What did the President tell you?

Mr. EHRLICHMAN. He said we must not have a breath in this case, there can be no inducements, no offer, no hint. "I don't want it suggested by anybody from the White House that such a thing is even a possibility."

Mr. HÉBERT. Did you convey that to anybody?

Mr. EHRLICHMAN. In this meeting with Mr. Dean and Mr. Colson.

Mr. HÉBERT. You told them what you told us?

Mr. EHRLICHMAN. Not in those strong graphic terms, but I certainly imparted the message.

Mr. HÉBERT. There would be no consideration of it?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Did you talk with Dean about the President's call to Gray on July 6?

Mr. EHRLICHMAN. I don't recall that I did, Mr. Chairman. I can't recall a conversation about it. I may have talked to him on the phone, and mentioned it or not. I just can't tell you.

Mr. NEDZI. In the many meetings you had, did you ever talk about CIA involvement in this whole matter?

Mr. EHRLICHMAN. The only time I have a specific recollection of talking to Mr. Dean about the CIA was after this meeting with Helms and Walters where I said we have had this meeting, and you ought to know what took place. That is the only one I can remember.

Mr. NEDZI. You instructed General Walters to deal with Mr. Dean?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Were Helms and Walters asked pointblank whether the agency had any concern whatsoever relative to the FBI probing Mexican assets?

Mr. EHRLICHMAN. Not in those stark terms, I don't believe, Mr. Chairman. I don't think it was put as baldly as that.

Mr. NEDZI. Tell us again how it was put?

Mr. EHRLICHMAN. Well, I wish I could give you the colloquy, but I can't. It was very categorically stated that there was no involvement in the break-in. It was categorically stated to my satisfaction there was no danger in the Bay of Pigs episode being opened up. There was not that kind of categorical response with regard to all other unrelated CIA activity, and it was a kind of a nonassurance.

I can't say, and I don't want to put words in the general's mouth or anybody's mouth, but it was the kind of thing where, well, you may have something there that deserves to be checked or that deserves more study or I would like to look at that, or I can't tell you what words he used, but I am trying to give you a flavor of an impression I got.

It was the absence of a categorical red light, as I said over in the Senate hearing, you either have a red light or green light on these things. We got red lights on the others and we didn't on this. That was

really all we needed to hear, to say "OK, look, you fellows better get together with the FBI people."

Mr. NEDZI. Did you or Haldeman tell Walters and Helms that the President wanted Walters to see Gray?

Mr. EHRLICHMAN. I don't know that it was in that connected term. They certainly were told the meeting was being held at the President's insistence, and I don't think that the President's name was invoked in the request that they contact the FBI. I think that was just a natural outcome of the meeting.

Mr. NEDZI. That does appear to conflict with Mr. Haldeman's version of it, and Mr. Helms and Walters.

Mr. EHRLICHMAN. Yes, sir, it could well be. I kept no notes. I am giving you the best of my recollection of the tenor of the meeting. I have to say that it is dredging up recollections from a long way back of a short meeting, and you should give it just such weight as it is entitled to in your opinion.

Mr. NEDZI. Were there any provisions made at this time for any kind of followup on these instructions that were given, or on the request that was made to General Walters by you?

Mr. EHRLICHMAN. I felt my call to Dean, or my meeting with Dean—and I can't say which it was—was the followup. In other words, he was the followup man.

Mr. NEDZI. You took no notes at this time?

Mr. EHRLICHMAN. No, sir.

Mr. NEDZI. Other than this meeting, have you had any discussions with any CIA, FBI, or Justice Department officials relative to the possible role of the CIA in the Watergate, or CIA connection in the investigation of that?

Mr. EHRLICHMAN. Not until this latter-day investigation phase. I have been asked about some of these things by the U.S. attorney and by the grand jury in the last several months, but I believe I fully told you about the contacts that I had at that time.

Mr. NEDZI. Who has the responsibility to maintain White House liaison with the FBI?

Mr. EHRLICHMAN. In the first instance, the counsel on day-to-day operations. On substantive questions, policy questions of changes of statute or reorganizations and things of that kind, it would be whoever is assigned on the domestic staff to the Justice Department liaison.

Mr. NEDZI. It was not you?

Mr. EHRLICHMAN. Well, in a general sense it was. In other words, I had a man who worked for me on the domestic staff whose day-to-day responsibilities were the substantive aspects of law, order, law enforcement, affairs of the Justice Department. The FBI came within his purview. We would be dealing there with questions of budget, questions of whether the FBI should be involved in narcotics control, things of that kind, which were basically policy questions.

Mr. NEDZI. The question of guidance to the FBI in this kind of investigation, however, would fall into Mr. Dean's bailiwick?

Mr. EHRLICHMAN. Ordinarily. I got into frequent contacts with Mr. Gray because the President was pounding on me about the FBI leaks. I in turn was contacting Mr. Gray, expressing the President's concern about those leaks.

Mr. NEDZI. We do have a very important vote. There are some questions which we would like to continue to pursue, Mr. Ehrlichman, if you would be good enough to take a break for a few minutes, we will be back as soon as we can.

Mr. EHRLICHMAN. Fine.

[Whereupon, at 1:24 p.m., the subcommittee recessed for a floor vote until 2:27 p.m.]

Mr. NEDZI. We will get back to our hearing.

Mr. Ehrlichman, to your knowledge has Mr. Haldeman dealt directly or through subordinates on CIA matters?

Mr. EHRLICHMAN. I am not terribly familiar with his practice. My impression is it would be largely directly, but rarely.

Mr. SLATINSHEK. Mr. Chairman, on that point, perhaps it would be helpful for the record if you gave the subcommittee a brief summary of how responsibilities are allocated at the White House. We are unsure—certainly I am—as to how this is done, and who is running the show, so to speak.

Mr. EHRLICHMAN. Well, the President is running the show. That accounts for some of the irregularities at times in the process, but basically the last 3 years of the first term, Mr. Haldeman had responsibility for the staff operation, the nonsubstantive staff operation.

Mr. SLATINSHEK. What does that include?

Mr. EHRLICHMAN. Well, that would include the logistics, and the President's household staff, so to speak, staff secretary, and the scheduling and the appointments and trips and that sort of thing.

Henry Kissinger had responsibility for national security substance, and I had responsibility for domestic substance, and that is basically the President's legislative program, his domestic policy, bringing to him whatever information he needed to cope with domestic issues which were Presidential and had to be decided by him.

On the other hand, occasionally you get into the situation where you are called to the President's office and you are sitting there and he says, "What about such-and-such a bill," or "How are we looking on this veto," or "How are you coming on such-and-such a study," or "I want you to pick up a new piece of work," and it is this and that. He will say "By the way, I noticed in the news summary this morning thus and so. And here is what I would like to have you do. Get hold of Mr. Helms and work out with him a procedure so that I can see these documents."

If I am delegated the responsibility of that kind, directly by the President, I follow it out unless I can talk him out of it. In some circumstances I might say to him, "Mr. President, I think Henry Kissinger would be in a better position to do that. He is in more regular contact." He would say, "Yes, I know, but I have a reason why I don't want Henry to do that," or "Henry is in China," or "I have a reason I want you to do that because of your past familiarity," and such-and-such a thing. He would stick right to it.

Mr. SLATINSHEK. Are you saying, then, if there were a direct chain of command, so to speak, from the White House to CIA it would flow through Mr. Kissinger rather than yourself?

Mr. EHRLICHMAN. That is correct.

Mr. SLATINSHEK. Now, if I may again interject here.

How about Watergate? We have had considerable testimony that

Mr. Dean was in essence the party responsible for handling all matters related to Watergate, yet you, on occasion, would become involved.

Can you explain how that developed? I know you did allude to it earlier, but I think it is not clear.

Mr. EHRlichman. I am not sure I can generalize where that particular case is concerned.

You are correct, as a general proposition Dean was the project manager. We were, however, in a political campaign, and this was a political issue.

Bob Haldeman had certain responsibilities to the President for the political aspects of the White House, that is, he was the liaison between the President and the campaign manager.

On the other hand, I was the liaison between the White House and the various issue organs of the campaign, the people at the Republican National Committee, the people at the Committee to Re-elect, who were disseminating issue and position papers and advising spokesmen what to say, and things of that kind.

So, where Watergate became an issue politically, I would inevitably need to know things which John Dean knew. In addition to that, I went into a different relationship to the press secretary, as we get into the campaign, and it became one of my duties to sit with the press secretary virtually every day, to talk with him about his position that he would take on various issues of the day, particularly domestic issues that became campaign issues, like welfare reform and things of that kind.

So it was natural for us to also talk about what his position would be on the Watergate, and so John Dean was tasked with keeping me informed for that set of reasons, and I think Bob Haldeman for quite another set of reasons, about the developments in the Watergate case. And he would do that, and quite faithfully, by keeping us posted as we came to landmarks. The trial date has been set, the trial has been postponed. It will now be after the election instead of before the election. Roy Chapin is accused of doing something wrong in the paper today, or he will be accused tomorrow, or something of that kind.

So we were more than ordinarily informed about the progressive details of the ongoing investigation and then the litigation which ensued.

Today—there isn't any comparable case, but I was trying to think of any comparable litigation or comparable applications of wrongdoing in the past I would have had less intimately familiarity, I would be less intimately advised of the progression, simply because it isn't in my bailiwick, strictly speaking.

The counsels' organization resides on the table of organization under Bob Haldeman, in the household staff, so to speak, along with the press secretary and the appointment secretary, and so forth.

Mr. SLATINSHEK. Then, FBI, does that come under your cognizance?

Mr. EHRlichman. Only on policy things. As I explained before, the day-to-day liaison with the FBI on investigations and internal security and things of that kind, routinely would have been in the counsel's office.

When I was counsel back in 1969, and we had riots and we had civil disturbances and all that, I was in very intimate contact with the

FBI and the military and all the domestic law enforcement people on a regular basis.

Mr. SLATINSHEK. That brings me back to that so-called canceled meeting.

You don't recall, apparently, that you had canceled that meeting. Did you have a conversation with Gray, however?

Mr. EHRLICHMAN. I am sure I did. And I am sure I indicated to him this ought to be handled, in my view, on a 1-to-1 basis, without the staffs getting involved at that point.

Mr. SLATINSHEK. Well, at this point, then, we do have a basic contradiction in the testimony. We have you in effect telling him 1-to-1, and Gray interpreting what you said as being an abrupt cancellation of the meeting?

Mr. EHRLICHMAN. Well, I didn't have a peremptory relationship with Mr. Gray, at least I never felt I did, where I would simply call and say "Jump," and he would say "How high." It was much more of a relationship of peers. I have known him for many, many years. We have had what I have always considered a cordial relationship. So his characterization of that call doesn't square with what I conceive to be our relationship.

Mr. NEDZI. Did Mr. Gray ever tell you that he could not possibly suppress the investigation of this matter?

Mr. EHRLICHMAN. I don't recall his ever saying that to me. I read that somewhere that he is supposed to have said that. But I don't believe that he says he said that, and I certainly don't recall his ever saying it.

It is my recollection over in the Senate transcript he said he didn't recall saying that.

I could be wrong on that, but in any event, I don't recall the statement.

Mr. NEDZI. Mr. Ehrlichman, in the President's statement of May 22, he stated that you were invested with the responsibility for supervision of the plumbers group, which included Mr. Hunt.

What was the extent of that supervision?

Mr. EHRLICHMAN. It was the establishment of a line of reporting to the President in a routine line of reporting, the designation coming at a meeting which he held with Mr. Krogh and me.

At that time we not only had suffered the Pentagon Papers loss—

Mr. NEDZI. Can you fix the time?

Mr. EHRLICHMAN. Twenty-fourth of July, as I recall it, of 1971.

Right about that time we were also experiencing leaks out of the Disarmament Agency with regard to the SALT talks, and the President viewed this with much gravity. He told Mr. Krogh that he wanted a very vigorous effort made to cause the State Department people, Defense Department people, the Agency people, and the Attorney General, to use every effort to find out the source of these leaks within their own Departments, and he wanted Krogh to keep on their backs, and if he had questions, he could either bring them to me or bring them to the President in the event that they were urgent enough to bring directly to the President. The President did, on occasion, have meetings with Mr. Krogh, but since he was originally a member of my staff, it was natural that he would continue to report to me for questions that he might have.

Mr. NEDZI. Were you told the plumbers planned to seek any CIA assistance?

Mr. EHRLICHMAN. At some point in time I knew that they were seeking CIA assistance in respect of this psychiatric profile. My statement includes a meeting which I arranged for them to sit down with Director Helms to talk about the principal CIA assistance which they were to have which was that of retrieval and analysis of newspaper stories and leaks. The CIA did produce a very good catalog of all of the leaks that had taken place, and some analysis of the significance of the leaks, as I recall. At any rate, a complete compendium of all of the leaks that had taken place.

Mr. NEDZI. Was there any other kind of request for assistance made?

Mr. EHRLICHMAN. Other than Mr. Hunt going over there, which I already have testified to, I don't know of any.

I would think that is all I know of.

Mr. NEDZI. What did you know about the Ellsberg profile?

Mr. EHRLICHMAN. Well, at some point in time—and I can't fix it—I knew that such a thing had been requested, and that they were working on it.

Mr. NEDZI. Requested by whom?

Mr. EHRLICHMAN. By David Young, as I understood it.

At some point I saw it, I saw the final psychiatric profile.

Mr. NEDZI. Did you talk with David Young about this?

Mr. EHRLICHMAN. I believe I did, yes.

Mr. NEDZI. Prior to the request of Mr. Helms?

Mr. EHRLICHMAN. No, I don't think so. I think it was well after they were into the project.

Mr. NEDZI. Did you ever meet with anybody with respect to the preparation of the profile?

Mr. EHRLICHMAN. Only David Young, and that was, as I say, near the last stages of it.

Mr. NEDZI. Did you ever meet with Mr. Osborn, the Director of Security at the CIA?

Mr. EHRLICHMAN. Yes, he was with Mr. Helms on the occasion of the original meeting that we had to introduce them to Krogh and Young.

Mr. NEDZI. It had nothing to do with the profile?

Mr. EHRLICHMAN. I don't believe it was discussed at all at that meeting.

Mr. NEDZI. Was it ever drawn to your attention the first profile was unsatisfactory?

Mr. EHRLICHMAN. I don't think it was, until I was told about or shown the second profile, and it was explained to me the first had been unsatisfactory. I could be off on that. My recollection on that whole subject is not terribly clear.

I don't think that I became aware of the first one until after the second one was either in progress or had been completed.

Mr. NEDZI. Was there any other kind of CIA involvement with the plumbers that you were aware of?

Mr. EHRLICHMAN. I don't believe so.

Mr. NEDZI. What kind of provisions for logistical support to the plumbers was made?

Mr. EHRLICHMAN. I don't know that any was made, Mr. Chairman.

Mr. NEDZI. They were to function on their own? Did they have a budget or could they draw on anybody else's resources?

Mr. EHRLICHMAN. No, I don't believe so. There were only three or four of them, and they were all on the payroll to begin with. So it was just a matter of making a temporary assignment of these people to this specific job for a limited period of time.

Mr. NEDZI. Were they provided with any staff of any kind?

Mr. EHRLICHMAN. No, I don't believe so. They were given some office space, separate from their ordinary offices, where they could keep papers and so forth. And it was half the size of this room, I guess, or smaller.

I don't know whether they hired any secretarial support or not. I don't think they did. I think they probably used somebody's existing secretary.

Mr. NEDZI. Did you make any positive effort to determine whether there was any CIA assistance for the members of the plumbers group?

Mr. EHRLICHMAN. Yes, sir, I introduced them to Mr. Helms and Mr. Osborn, and told them—that is Krogh and Young—and told Helms and Osborn the President wanted vigorous CIA support for this attempt to determine the source of leaks. And Director Helms responded he felt that was well within the charter of the Agency to do, and they offered to do this data retrieval and analysis and that work went forward.

Mr. NEDZI. Did Mr. Young report to you?

Mr. EHRLICHMAN. From time to time he did, yes.

Mr. NEDZI. What did he report on?

Mr. EHRLICHMAN. A whole range of things were going on, on the SALT leaks for instance, he and Krogh got into the Defense Department and the State Department and worked with Mr. Cook at Defense and Gentile at State, and they shook the place up and they got some results.

They managed to track down what the sources of some of those leaks were. As that work went on, from time to time they would either send a memo to the President through me, or giving him a progress report, or give me a progress report as to how they were getting along.

Mr. NEDZI. What was your impression of the purpose for which this Ellsberg profile was going to be used?

Mr. EHRLICHMAN. It was explained to me that this was something that the National Security Council had been provided with from time to time as an aid in understanding the individual involved.

At the time—again, as was explained to me—at the time it was requested it is true that we didn't know very much about Mr. Ellsberg. We had a rather sketchy FBI description of him. We had been advised by the Attorney General undoubtedly he was a member of a conspiracy. We had been advised by Mr. Martian that copies of the Pentagon Papers had been delivered to the Russian Embassy.

We had been advised that it would appear that the integrity of the Rand Co. had been violated in this process. We didn't know what we had here, whether we had a foreign agent, or we had a domestic conspiracy, or a soul act, or what we had. These fellows were turning over

every rock trying to get information. And I think they, in their judgment, felt this was one way to understand this fellow better.

Mr. NEDZI. It is reported that you told FBI investigators the President asked you to undertake an independent investigation of the Pentagon Papers case.

Mr. EHRLICHMAN. I told the FBI that?

Mr. NEDZI. Yes.

Mr. EHRLICHMAN. Well, that wouldn't be quite accurate. I would doubt I told them that. I think I told them substantially what I told you about the inception of the special unit.

Mr. NEDZI. You did nothing beyond what you told us in this regard?

Mr. EHRLICHMAN. Well, later on I did, not in the inception. Later on I got personally involved in one incident, and worked with Mr. Young. It had nothing to do with this whole set of circumstances, it is quite a separate incident. But I did take a much more active part in the latter episode than I had in either the Pentagon papers or the SALT leaks or any of these others.

Mr. NEDZI. What time frame was that?

Mr. EHRLICHMAN. That would have been around Christmastime of 1971.

Mr. NEDZI. What did that involve?

Mr. EHRLICHMAN. Well, Mr. Chairman, it involved—I gather this is a tight record—it involved the leaks out of the [deleted].

Mr. NEDZI. That will be treated confidential.

Mr. EHRLICHMAN. Thank you.

Mr. NEDZI. Was there any destruction of Hunt's files that you are aware of?

Mr. EHRLICHMAN. Yes, sir, Mr. Gray advised me that he destroyed that portion of the contents of his safe which Mr. Dean turned over to him. Other than that, I know of no destruction of Hunt's files.

Mr. NEDZI. On whose instructions was that done?

Mr. EHRLICHMAN. I don't know.

Mr. NEDZI. Did you have anything to do with it?

Mr. EHRLICHMAN. No, sir. I was present at the time they were turned over, but I certainly heard no instructions for their destruction.

Mr. BRAY. What reasons would they have for destroying those files?

Mr. EHRLICHMAN. Mr. Gray didn't give me a reason, Mr. Bray.

Mr. BRAY. Do you have any judgment as to why?

Mr. EHRLICHMAN. I cannot assign any reasonable conjecture.

Mr. BRAY. I couldn't either.

Counsel, is there any other evidence or testimony on that subject about the destruction of those files?

Mr. HÉBERT. This is the first time it has come up.

Mr. BRAY. This is the first time it has come up?

Mr. SLATINSHEK. Right.

Mr. NEDZI. Were you aware of some shredding that took place at the Re-election Headquarters subsequent to the Watergate break-in?

Mr. EHRLICHMAN. I saw that on television when the Senate was interrogating the witnesses. That is the first I knew of that.

Mr. NEDZI. That was in the press last summer, wasn't it?

Mr. EHRLICHMAN. There has been a lot of conjecture in the press that I haven't been willing to assign total credibility to. You know there was supposed to be wholesale shredding over there, and so on, but I did hear Mr. Odell and these other people testify on television. I don't have any firsthand knowledge of it.

Mr. NEDZI. Yes, but this is merely confirmation of what had appeared in the press months ago?

Mr. EHRLICHMAN. I think that is probably right, Mr. Chairman.

Mr. NEDZI. The point I am getting to, Mr. Ehrlichman, is a question as to why this didn't raise some questions in your mind at that time.

Mr. EHRLICHMAN. On what score, Mr. Chairman?

Mr. NEDZI. On the whole issue of whether the Committee to Re-elect the President can be relied upon, and Dean's relations with them, and other things that you in retrospect say were warning signs.

Mr. EHRLICHMAN. There isn't any question there were things in the press which caused me to wonder, to be concerned.

I had doubts. I had speculation at different times. My theories of the case changed.

I was not one charged with any kind of direct responsibility for ferreting out these facts. I must say I had plenty of other things to do. And just really did not get myself involved in trying to determine what the facts were until this year.

Mr. NEDZI. Didn't the news of shredding documents concern you?

Mr. EHRLICHMAN. In a remote sort of way, perhaps, Mr. Chairman, but it certainly was not anything that would cause me to drop my other duties and go charging into this subject matter.

Mr. NEDZI. Were you apprised by anyone of these theories of what might have occurred, the possibility the CIA was involved, and that there was a Cuban involvement, and there was one other item that was mentioned as a possible reason for the break-in?

Mr. EHRLICHMAN. That kind of speculation was rife, was rampant in the weeks following the break-in. I was certainly aware of the speculation.

Mr. NEDZI. Did you give credibility to any of it?

Mr. EHRLICHMAN. I can't say that I did.

Mr. NEDZI. What did you really think happened?

Mr. EHRLICHMAN. I didn't know what happened, Mr. Chairman.

I entertained the suspicion that these fellows had been turned loose to make this break-in as a part of the political operation.

I was repeatedly assured that that was not the case, that they were self-starters, that this was not anything fostered at a higher level.

Mr. NEDZI. Assured by whom?

Mr. EHRLICHMAN. Well, by the people at the committee.

Mr. NEDZI. Who?

Mr. EHRLICHMAN. Clark MacGregor, for instance, who said he had conducted interviews with every man jack of the political staff over there when he went in. He could find no involvements whatever of the higher-ups. The Attorney General of the United States—which I guess is a monumental FBI investigation—reassured me and the Cabinet at a meeting which I attended that they had caught the guilty parties and no one else was involved.

Mr. NEDZI. When was this?

Mr. EHRLICHMAN. In September 1972.

So there were a lot of reassurances around from a lot of very credible people.

Mr. NEDZI. Mr. Ehrlichman, did you have any responsibilities relating to the activities of the National Security Council?

Mr. EHRLICHMAN. No, sir; I did not.

I am not a member.

I was a member of a sort of a half-way group between domestic and foreign in the Council on Foreign Economic Policy, and National Security Council people worked on economic problems as did people from the Council of Economic Advisers and the domestic staff. As far as the direct involvement with the National Security Council operations is concerned, no.

Mr. NEDZI. You never attended any meetings or had any kind of responsibility with respect to conveying to them certain assignments or anything of that nature?

Mr. EHRLICHMAN. No, sir.

Mr. NEDZI. Were you at all involved with this so-called Houston project?

Mr. EHRLICHMAN. No. With one exception. I attended the final meeting, I guess it was the final meeting, in the President's office, where the President convened a meeting of the heads of the various investigatory and intelligence agencies, and this thing was described to them—this proposal. I was there as a listener. I don't believe I had any other contact with that project at all.

Mr. SLATINSHEK. Mr. Chairman, may I interrupt?

Mr. NEDZI. Yes.

Mr. SLATINSHEK. Why wouldn't you? I had the impression you would be responsible for the domestic scene. Would this not be a part of your concern?

Mr. EHRLICHMAN. No. Here again you have to divide between the domestic policy and substance, on the one hand, and domestic operational, on the other.

Mr. SLATINSHEK. This is a significant policy decision here?

Mr. EHRLICHMAN. It was viewed much more as operational. Houston was in the office of the Council.

Mr. SLATINSHEK. He worked for Young or Dean?

Mr. EHRLICHMAN. No, I think he probably worked for Dean, at least on the table of organization. As a practical fact, he was reporting direct to the President. And this was just not anything that was ever considered to be in our purview, and was never assigned to us. I think I was invited to this last meeting sort of with a realization there was a policy aspect to this, that maybe I ought to sit in and listen.

Mr. SLATINSHEK. Let me give you an impression I have. I have the impression, and I was told I was wrong recently, that Mr. Haldeman was Chief of Staff over there, and that you were his lieutenant, and Mr. Haldeman said:

Mr. Ehrlichman will take umbrage with you on that. He is not my lieutenant, he was his own man, and he operated in his sphere of influence and his sphere of responsibility, and it was the domestic scene.

And he pointed out that Mr. Kissinger took care of the international scene and consequently CIA fell into his ambit, therefore I would

assume FBI would fall under yours normally, and domestic intelligence.

And so this is why I am a little puzzled how you suddenly are no longer concerned with policy in this area.

Mr. EHRlichman. There is domestic intelligence and there is domestic intelligence, I guess.

When I was counsel in 1969, we saw a greivous lack in the way the Federal Government was organized to cope with campus demonstrations and black militants and all kinds of domestic problems that existed.

Director Hoover had not wanted to get the Bureau into that. The military had come into it a little bit, military intelligence.

Mr. HÉBERT. You say Hoover wanted to get them in?

Mr. EHRlichman. Did not.

Mr. HÉBERT. Did not?

Mr. EHRlichman. No. Kept the people off the campuses and pretty much out of the black militant thing. There was quite a lot of intelligence around, but it was developed by police departments and sheriffs' offices and State police, and so on, and nobody was pulling all that together.

Now I phased out of those kinds of concerns when I went into domestic affairs at the end of 1969, at the end of the first full year.

Mr. SLATINSHEK. When you were counsel you were concerned with that?

Mr. EHRlichman. Yes, sir, very much so. I had a direct line to the riot center in the DOD, and I had a direct line to the Mayor of the District, and we ran the demonstrations pretty much out of my office in those days, and we were concerned with these crowds coming to the city and all that. That was conceded to be the role of the counsel.

And I did that. Then when I got over into domestic affairs and I got concerned with agricultural policy and economic policy and substantive stuff, John Dean succeeded to most of that mantle, and when the President wanted this coordination job to be done, he wanted to pull all this domestic intelligence together and beef it up, it was, I think, quite natural that the office of the counsel continued to concern itself with that in the conception of the plant. Houson was here. He was doing something else. He was assigned to the counsel's office to do this job. And do it was not extraordinary, I think, that I was not in it in the inception.

If I had been approached to be in it, I would have resisted it, because I was trying to stay fairly pure. I was trying to concern myself with the budget and the legislative program, and the issue, so to speak, the substantive issues, and to try and stay out of the operational as much as I could.

It was always a battle because the President remembered me from 1969 having been in a lot of these things, and from time to time he would say to me, do this or do that, in that area, and I would have to try and get him to rethink the assignment. It is by no means crystal pure.

Mr. NEDZI. Mr. Ehrlichman, General Walters in his memo said that Haldeman said that the bugging affair at the Democratic National Committee Headquarters at the Watergate Apartments had made a lot of noise, the Democrats had tried to maximize it. The FBI was

called in to investigate the matter. This investigation was leading to a lot of important people and this could get worse.

Is that your recollection of what was said at that first meeting?

Mr. EHRLICHMAN. Not precisely. I think it was those kinds of things that were said. I don't remember the business about important people. But the other kinds of things were said in this connection, as I have said in my statement, that it was a hot political issue, that the only way to lance it and to avoid having it be a negative political issue for the administration was to turn the FBI loose and to have a vigorous no-strings-attached FBI investigation.

And that the reason for this meeting was to determine whether there would be any fallout, so to speak, that would be harmful to the Agency.

I think the things were said. It is a tough political problem. It is a hot issue. We are going to go allout on an FBI investigation, and so forth.

Mr. NEDZI. He also said Director Helms said that he had talked to Gray the previous day and has made plain to him that the Agency was not behind this matter, that it was not connected with it, and one of the suspects was working for nor had worked for the Agency in the last 2 years. He had told Gray that none of his investigations was touching any covert projects of the Agency current or ongoing.

Mr. EHRLICHMAN. I don't think that Director Helms' response was that elaborate. I think he said that he had confidence that the Agency was not involved in the break-in, that specifically the Bay of Pigs was not an exposure. I don't know whether or not he said he talked at the previous meeting to Gray, I don't have a recollection on that. There was never in this whole meeting, either by Helms or the general, the kind of a comprehensive, categorical assurance that would have, for my money, ended the meeting. We never got that kind of full, rounded assurance.

Mr. NEDZI. How can you say it would have ended the meeting in the light of Mr. Haldeman's categorical statement that the President told him to tell Walters to go to see Gray?

Mr. EHRLICHMAN. Well, I may have gotten the signals—I may have misunderstood the signals. My impression of that meeting—and I admit my impression of that meeting is colored by what the President told me a week or 10 days later—but my impression of that meeting was that it was for the purpose of determining whether or not there was a problem, and if there was a problem, and it is conditional—if there was a problem, then to get the parties together, the Agency and the Bureau.

Now, I have to give you my impression. If Mr. Haldeman knew that regardless of the outcome they were to be sent over to the FBI, he certainly didn't impart that to me. And I don't think he displayed that at the meeting. That wasn't my impression at the meeting.

Mr. NEDZI. General Walters said that he called you on the 26th of June. Do you recall that telephone call? This was the Monday after the Friday of your meeting.

Mr. EHRLICHMAN. Is this where he said he called to see if he should talk to John Dean?

Mr. NEDZI. Yes.

Mr. EHRLICHMAN. I don't have a present recollection of the call, but I certainly can't quarrel with it. I do know I did get them together somehow.

Mr. NEDZI. Did you ever consider that the break-in, the Watergate break-in could be organized by the Republican National Committee?

Mr. EHRLICHMAN. I could make a facetious remark about the ability of the Republican National Committee to mount an operation like that, but I won't. No, I never conceived that the Republican National Committee, as such, was involved in that. It just never occurred to me there would be any connection.

Mr. NEDZI. Did you know Mr. Dahlberg?

Mr. EHRLICHMAN. No.

Mr. NEDZI. You never met him?

Mr. EHRLICHMAN. No, sir, I don't believe so.

Mr. NEDZI. You have never been told who he is?

Mr. EHRLICHMAN. I know who he is now. But I didn't at the time.

Mr. NEDZI. When did you find out who he was?

Mr. EHRLICHMAN. In the news reports. I read about the Andreas gift, or whatever that is, and his check with it.

Mr. NEDZI. When was this?

Mr. EHRLICHMAN. I can't tell you. Whenever it broke in the news. I don't know.

Mr. NEDZI. Was it last year?

Mr. EHRLICHMAN. I am sorry, I guess it was, it must have been within 2 or 3 months after the break-in.

Mr. NEDZI. Have you heard anything about him in connection with the Mexican aspects?

Mr. EHRLICHMAN. Only what I read in the press, Mr. Chairman. I never heard about it anywhere else.

Mr. NEDZI. General Walters in his memorandum of July 13, recording his meeting of July 12, with Mr. Gray said that Mr. Gray said that the President said, "Then I should get rid of whoever is involved, no matter how high." Gray replied that that was his recommendation. The President then asked what I thought. Gray said that my views were the same as his. The President took it well and thanked Gray.

Does that square with what the President told you about the conversation?

Mr. EHRLICHMAN. No. He didn't mention that part of the conversation to me, Mr. Chairman.

Mr. NEDZI. He just said after speaking with Clark MacGregor he wanted to make a telephone call to Gray to provide an opportunity to discuss this problem?

Mr. EHRLICHMAN. He said that he had in fact made the call by the time he had spoken to me.

Mr. NEDZI. Yes.

Mr. EHRLICHMAN. That Gray had said to him that there was no CIA objection to his going all-out on this investigation, and that he, Gray, felt that he had to do so, that there were leads. It was a legitimate investigation, he had to go forward with. The President agreed, and said "By all means, go ahead and make a full investigation."

That is the substance of what he told me about the conversation.

Mr. NEDZI. But the call was prompted by MacGregor's report?

Mr. EHRLICHMAN. By MacGregor's conveying a request from Gray to the President.

Mr. NEDZI. Or a call?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Are you acquainted with the President's statement which was made on May 22?

Mr. EHRLICHMAN. I have read it, yes.

Mr. NEDZI. Does his account square completely with your account of that conversation?

Mr. EHRLICHMAN. I don't believe it does.

Mr. NEDZI. I didn't think it did. I was just wondering whether you recognized that fact.

Mr. EHRLICHMAN. I do. I think the drafter of that statement did not have the advantage I had of my verbatim notes of the conversations—I say verbatim—I take substantially verbatim notes of my conversations with the President.

Mr. NEDZI. The President is rendering the statement?

Mr. EHRLICHMAN. At least nominally so. Although I know the research that went into it stumbled in a few places.

Mr. NEDZI. Where else did it stumble?

Mr. EHRLICHMAN. It stumbled at the place where the statement says, "Within a week after the Pentagon papers leak the special unit was formed at the White House." That is not accurate. That is a discrepancy as far as I am concerned. I called it to the attention of Mr. Buzhardt at the White House as soon as I saw it. He acknowledged it was a discrepancy.

Mr. NEDZI. Has that been publicly acknowledged?

Mr. EHRLICHMAN. I don't believe so.

Mr. NEDZI. I am certain that you saw the Washington Post this morning, Mr. Ehrlichman?

Mr. EHRLICHMAN. Well, in truth and in candor. I didn't, except counsel pointed out the article on the front page with regard to me. I read it very quickly before I came over here.

Mr. NEDZI. According to the article, the memo, it is alleged—I want to make that clear, Mr. Chairman—that a memo was sent to you by former White House aide David Young and Egil (Bud) Krogh, which was dated September 3, the date of the burglary of the psychiatrist's office which, in substance detailed plans to burglarize this office.

Is there any factual basis to this allegation?

Mr. EHRLICHMAN. I certainly cannot recall ever seeing such a memo, Mr. Chairman. When I get through here I am certainly going to go over and have a look in the files and see what this is all about.

There was a written proposal that Hunt and Liddy be sent to the coast to do investigation work.

Mr. NEDZI. Whose proposal was it?

Mr. EHRLICHMAN. I think from Krogh or Young, or one of them, I don't recall who.

Mr. NEDZI. To you?

Mr. EHRLICHMAN. Yes, sir. And I do recall the substance of that proposal.

Mr. NEDZI. What was the substance of the proposal?

Mr. EHRLICHMAN. The substance of it was they would go and investigate these questions I alluded to before, Ellsberg's relationships, how he got the papers out, what sort of a person he is, is he a part of a conspiracy, all the lingering, remaining questions about Ellsberg as an individual that we were not getting answers to.

I have testified before the grand jury and elsewhere that I approved that proposal. And that is the sum and substance of my recollection.

Mr. NEDZI. Could a plan to burglarize the psychiatrist's office have been included in that proposal?

[Transcripts from record of Senate Watergate Committee:]

THE WHITE HOUSE

WASHINGTON

August 11, 1971

MEMORANDUM FOR: JOHN D. EHRLICHMAN

FROM: BUD KROGH AND DAVID YOUNG

SUBJECT: PENTAGON PAPERS PROJECT - STATUS
REPORT AS OF AUGUST 11, 1971(1) Where things stand in the Grand Jury investigations.

The Los Angeles Grand Jury last week subpoenaed six people. Messrs. Burt Wallrich, Arne Guilfoile, Spencer Marx and Jackie Barnett all appeared and took the Fifth Amendment. Albert Appleby and Jane Younan are presently outside of California on vacation and will be subpoenaed when they can be served. Ellsberg's old telephone records were also subpoenaed but were not available since the records were not kept back that far. His Bankamericard records have also been subpoenaed but have not yet been received.

The Boston Grand Jury will meet next week. Justice has not made a final decision but is considering subpoenaing the following individuals:

Mrs. Louis Marx (mother of Mrs. Ellsberg)
 Samuel Popkin (Harvard)
 Richard Falk (Princeton)
 Ralph Stavins (IPS)
 Richard Barnett (IPS)
 Marcus Raskin
 K. Dunn Gifford (A friend of Sheehan and Ellsberg who stayed at Treadway Motor House March 20th, when Sheehan was there.)
 Richard Steadman

It seems unlikely that Barnett, Raskin and Gifford will be called because they have been overheard.

(2) We have received the CIA preliminary psychological study (copy attached at Tab A) which I must say I am disappointed in and consider very superficial. We will meet tomorrow with the head psychiatrist, Mr. Bernard Malloy, to impress upon him the detail and depth that we expect. We will also make available to him here some of the other information

we have received from the FBI on Ellsberg. ✓ In this connection we would recommend that a covert operation be undertaken to examine all the medical files still held by Ellsberg's psychoanalyst covering the two-year period in which he was undergoing analysis. ✓

Approve E Disapprove _____
 if done under your assurance that it is not traceable.

(3) We have received a letter from Director Hoover confirming that the Ellsberg case and related matters will be handled on a "Bureau Special" basis.

(4) We have tasked CIA with doing a leak assessment on all leaks since January, 1969, along the lines of the attached memorandum at Tab B.

(6) We are continuing to press the FBI to determine whether the report of a foot locker containing film magazines stored for Ellsberg with Bekins Van and Storage Company in California is indeed accurate, and what the content of the films is. The foot locker was apparently picked up by a friend of Ellsberg, a reporter for Dispatch News Service, David Obst, who indicated that the contents of the foot locker were needed for a book to be published in New York.

(7) Attached at Tab C is a memorandum from Richard Smyser on impact of (a) Ellsberg case, (b) an expose of the 1963 coup, and (c) the drug situation in South Vietnam, on (a) South Vietnamese election, (b) the U. S. election, and (c) on peace negotiations.

Mr. EHRLICHMAN. I don't see how it could. I can't explain that. I certainly can't reconcile this newspaper story this morning with my recollection. I have been rather consistent and steadfast in my testimony on this subject in various forums. As I say, I saw it very briefly before coming over here, and I am certainly not prepared to respond to it.

Mr. NEDZI. Wouldn't this be something which you would remember?

Mr. EHRLICHMAN. I dare say it would.

And I have been, I think, very plain in saying to the best of my recollection I have no prior knowledge of that event before it occurred.

Mr. NEDZI. If that were included in the proposal, would you have approved it?

Mr. EHRLICHMAN. No.

Mr. NEDZI. Why not?

Mr. EHRLICHMAN. Well, because it would be so clearly extraneous to what I would consider propriety.

Mr. HÉBERT. I want to read this, Mr. Chairman.

You said "alleged," did you intend to say the story said it was alleged? I wondered what person informed them. This is a false statement?

Mr. EHRLICHMAN. I have been the unwilling recipient of 6 days running of that kind of story, of various versions of either this or some other incident.

I have a feeling I am a target at this point.

Mr. SLATINSHEK. Mr. Ehrlichman, I am going to get back to that theme I played a little while earlier. Again we had reference to this memorandum which came to you. And you recall something coming to you in broad outline, as we refer to it, and that is about it.

But what I don't understand is why it came to you at all?

Mr. EHRLICHMAN. Because the original concept of this unit was, as I have explained, it was going to stimulate, it was going to be a co-ordinator, it was going to cause the existing security organizations to do better. Here was a proposal for the first time to involve White House personnel in investigation. It was a departure, there isn't any question about it.

I felt under the circumstances that it was justified because we were not getting the information from the FBI. There were some internal problems, and I had verified them with the Attorney General. So I felt under the circumstances, and with the urgency of this particular problem, that with appropriate safeguards we should make this departure from the original concept.

Mr. SLATINSHEK. In other words, however, you were still in a sense overseeing this entire operation?

Mr. EHRLICHMAN. Well, this was the kind of question that the President contemplated Krogh might bring to me from time to time. He was the daily manager. And he reported to me or brought questions to me he thought necessary.

Mr. SLATINSHEK. I would like to go back to the paper that has caused so much stir in the press on the domestic intelligence proposal that had never really been implemented, but was approved by the President, and apparently was cooperated in by all of the agency heads, including Mr. Helms.

There has been concern expressed that Mr. Helms, in cooperating on

this venture, somewhat compromised his heretofore great obvious reluctance to get into domestic intelligence. I have a memorandum for the record here, which I would like to read, which expresses Mr. Helms' concern that he was under the impression the Attorney General had been aware of this arrangement, and the plan, and discovered late, after the plans had been approved by the President, that he, the Attorney General, was not aware of this. And, therefore, Mr. Helms felt as though he ought to back off.

I will read that, if I may, Mr. Chairman.

Mr. NEDZI. Please do.

Mr. SLATINSHEK [reading]:

Memorandum for the Record, 28 July, 1970.

Subject: Discussion with Attorney General Mitchell on Domestic Intelligence.

1. During a private meeting with the Attorney General on 27 July 1970, it became clear, to my great surprise, that he had heard nothing whatever about the President's instructions on "Domestic Intelligence" until that very morning. In other words, the Attorney General had not been told of the meeting at the White House on 5 June 1970 or of the ad hoc committee meetings chaired by the FBI which had followed or about the report which was sent to the President around 1 July, setting forth constraints on domestic intelligence collection. As I understand it, the Attorney General first heard about these matters when the Director of the FBI complained to him about a memorandum from Mr. Tom Charles Houston which must be essentially the same text as the one I received under date of 28 July 1970 (#SC 06876-70).

2. I told the Attorney General that we had put our backs into this exercise, because we had thought that he knew all about it and was behind it. The Attorney General was frank with me. In addition, he said that he had told Mr. Hoover to "sit tight" until he (the Attorney General) had an opportunity to discuss this whole matter with the President upon his return to Washington from San Clemente next week.

3. In connection with the problems involved in domestic intelligence collection, I again suggested to the Attorney General that he have a talk with Mr. Sam J. Papich who, I pointed out, has now fully retired from the FBI. The Attorney General again wrote down Mr. Papich's name.

RICHARD HELMS, *Director*.

Can you tell us, in view of your very close and intimate relationship with the President and the fact you were in constant touch with him and he relied on you very heavily on matters of intelligence, as you have demonstrated in your discussion here today, can you tell us what you know about this particular program, and what, if any, discussion had been held by you with the President on this, or any other member of the White House staff?

Mr. EHRLICHMAN. I would want to check my notes, counsel. I don't recall any discussion with the President on this in the Houston context—that is, the Houston project.

I do recall in 1969, when I was counsel, gnashing my teeth and complaining to the President at the time about our inability to get the Bureau to respond in our need for better domestic intelligence.

But in terms of Mr. Helms' memorandum, the knowledge of the Attorney General, or his lack of knowledge, those kinds of things, I just don't have any recollection.

I do have a recollection of attending that one meeting where this thing was aired on a rather formal take it or leave it basis by Houston.

Mr. SLATINSHEK. Is this the meeting of June 5?

Mr. EHRLICHMAN. I don't even remember the date of it. It was a meeting in the President's office where Admiral Gayler and Helms and Hoover and somebody from the NSA or DIA.

Mr. SLATINSHEK. Mr. Bennett?

Mr. EHRLICHMAN. Somebody. And Houston made a presentation.

Mr. SLATINSHEK. Who else was there?

Mr. EHRLICHMAN. I think Bob Haldeman, and I don't know if Dean was there or not. I was there. I just don't recall if anybody else was there.

Tom Houston made the presentation. The President anointed it, in effect, and that seemed to be the purpose of the meeting, to pass the word that this was the new plan.

Mr. SLATINSHEK. Were you concerned with the possible political ramifications of a program of this kind which is unprecedented?

Mr. EHRLICHMAN. Frankly, in the gloss of it I heard at that meeting, some of the things I read in the paper the other day were not presented, or at least they didn't stick in my mind. I think had I heard those, I would have been concerned.

But the entire paper was not read at that time. It was given, as you know, the committees have been meeting and they've got an agreement, and this is it, we are ready to go now, and let's go.

Mr. SLATINSHEK. Well, Mr. Houston addressed a memorandum to Mr. Helms on July 23, 1970, which indicated the President, among other things, had carefully studied the special report of the inter-agency on intelligence and made a following decision, specific decision, one of them, I will not repeat all of them, "4. Surreptitious entry. Restraints on use of surreptitious entry are to be removed. The technique is to be used to obtain important foreign cryptographic material, and other internal security targets."

I think a decision of that kind is replete with potential political problems. I must assume that decision was made on June 5 with the President. You don't recall that?

Mr. EHRLICHMAN. That meeting was not a decision meeting. That meeting was an announcement meeting more than anything else, as I gather it in my impression of it. You are catching me cold. I have not checked any notes I might have taken. But my general impression is that meeting was for the purpose of the President saying firsthand to these gentlemen, he knew what the recommendations were, he had approved them, and he expected everybody to be aboard.

Mr. NEDZI. In 1969 you just mentioned that you thought there was a need for better intelligence?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. What did you do to satisfy that need? Was there any alternative that you looked to?

Mr. EHRLICHMAN. We felt that the existing available intelligence from the police departments and the regular law enforcement agencies would help us immeasurably if we had some way of gathering it and collating it. Mr. Martian, who at that time was Assistant Attorney General for Internal Affairs or Internal Security, or whatever that title was in those days, set up a small office with a couple of FBI agents and some other people to actually sift this stuff and solicit it from the various law enforcement agencies and to try and cross-reference it so that they could accumulate a more reliable catalog of people, of projected demonstrations, of plots, or bombings, or whatever it happened to be.

As far as I know, that was all that was done in that direction.

Mr. NEDZI. Wasn't that satisfactory?

Mr. EHRLICHMAN. Not very.

I don't think it produced very much that was worth much.

Mr. NEDZI. What did you feel was necessary by way of intelligence?

Mr. EHRLICHMAN. Well, I always felt that the FBI properly belonged in this, that it was a matter of certainly national interest. We were having a rash of bombings. We were having civil disorder. That there was strong evidence that the same people were going around the country fomenting incidents of various kinds. And were the Bureau to involve itself on a national scale, that a lot of these things could be anticipated and prevented.

We were never able to sell that to the Director.

Mr. NEDZI. How about the Attorney General?

Mr. EHRLICHMAN. Well, apparently, I don't know what the Attorney General's position was on that. My impression is that he at least commiserated with us. My impression was he was sympathetically inclined toward the idea of the FBI getting into it. But Director Hoover was just adamant.

Mr. NEDZI. How do you account for that, Mr. Ehrlichman?

Mr. EHRLICHMAN. Well, it was like other things.

He never wanted to get into narcotics. He never wanted to get into organized crime, really, the Mafia, and so forth. He just kept the Bureau out of those things.

He had a very fixed, clear view of what the Bureau should and should not do, and that is where he was.

Mr. NEDZI. Is there any further explanation of why he should act this way on these matters?

Mr. EHRLICHMAN. I think he felt for one thing there were some risks involved to the image of the Bureau, or its integrity.

Mr. NEDZI. With respect to narcotics and the Mafia?

Mr. EHRLICHMAN. Yes. And these were not areas that he wanted to venture into.

Mr. SLATINSHEK. Mr. Ehrlichman, one of the problems that we can't ignore is the rather abrupt dismissal of Mr. Helms as Director of the Central Intelligence Agency.

Can you tell the subcommittee what role, if any, you played in the events which resulted in this action and decision?

Mr. EHRLICHMAN. None, counsel.

Mr. SLATINSHEK. Had you been aware of his impending dismissal before it occurred?

Mr. EHRLICHMAN. I don't believe I was. As a matter of fact until I was asked this the other day I never considered it a dismissal. I had just assumed he was at his 20 years, or whatever the normal retirement point was, and he was happy to be an ambassador.

I am not aware of a firing or a dismissal.

Mr. SLATINSHEK. Do you have an apparatus or a procedure in the White House, certainly on a staff level, where you screen possible changes in heads of agencies, and who would be responsible for that? Would it be you or Bob Haldeman, or both of you?

Mr. EHRLICHMAN. It would depend on the field.

Mr. SLATINSHEK. Right.

Mr. EHRLICHMAN. For instance I would never have anything to do with the State Department. And I expect that is the same kind of rea-

son I never had anything to do with the CIA. It just wasn't in my field.

Where domestic departments and agencies were concerned, I was consulted.

Mr. SLATINSHEK. Did you handle Defense matters?

Mr. EHRLICHMAN. No.

Mr. SLATINSHEK. Who did?

Mr. EHRLICHMAN. Henry Kissinger.

Mr. SLATINSHEK. Defense matters, CIA?

Mr. EHRLICHMAN. He was always consulted on those personnel questions.

Mr. SLATINSHEK. Bob Haldeman played no role in that?

Mr. EHRLICHMAN. Yes; he did. He was a conduit for the President's desires and decisions to Henry, and to me for that matter, on personnel.

Mr. NEDZI. How about the Secretary of Defense?

Mr. EHRLICHMAN. That would be Henry Kissinger's area. There is a personnel office—a man named Jones runs it now; a man named Malek ran it before. They were responsible for generating proposals, and these would be sent through Bob Haldeman to the President for his decision.

We would be asked for our views in our areas before they were sent in, and we would endorse our own views on them. Occasionally there were conferences or meetings on this.

Mr. SLATINSHEK. The reason I am asking this question is evident to you. There is an inference, or at least an implication in some of the testimony Mr. Helms had not cooperated fully with the White House, and this was a punitive action that was taken. He had fallen out of grace, so to speak. This resulted in his dismissal.

Mr. EHRLICHMAN. I would be slow to believe that. I just don't know of a feeling of that kind. I know the President was impatient about foreign intelligence, the same way I was impatient about domestic intelligence, I think, and I heard him comment from time to time over the 4 years that, you know, all those fellows do at the CIA is cut out clippings, and I wish we could find out these things before they happen, and things of that sort—reaction to revolutions and one thing and another, when they occurred.

But I took that to be more of an institutional criticism than a criticism of the Director himself. As far as I know his relations with the President were always most cordial.

Mr. BRAY. If I may pursue this matter again.

The head of the FBI destroying what was found in the safe of a suspect, how do you know he did destroy those?

Mr. EHRLICHMAN. He told me so.

Mr. BRAY. When?

Mr. EHRLICHMAN. On the 14th or 15th of April this year, on the telephone.

Mr. BRAY. Did he say why he did it?

Mr. EHRLICHMAN. No, sir, he did not.

Mr. BRAY. Did he say when he did it?

Mr. EHRLICHMAN. Not precisely.

Mr. BRAY. What is your idea as to what time he did it?

Mr. EHRLICHMAN. I gather he had done it fairly recently, but I can't swear to that. That is just an impression.

Mr. BRAY. Do you know whether he told anyone else he did it?

Mr. EHRLICHMAN. Eventually he did. The circumstances were the President had me telephone—I was in the President's office at the time, when Mr. Gray told me that—the President was interested in what the contents were. I said, "They have been turned over to Mr. Gray. Mr. Gray said they had been destroyed."

The President immediately informed either the Attorney General or the Assistant Attorney General, I am not sure which. Assistant Attorney General Petersen then interviewed Mr. Gray and Mr. Gray confirmed the destruction of the material to Mr. Petersen.

Mr. BRAY. Do you know why he told Mr. Petersen he did it?

Mr. EHRLICHMAN. No; I don't.

Mr. BRAY. He was head of the FBI at that time?

Mr. EHRLICHMAN. Acting Director.

Mr. BRAY. Acting Director?

Mr. EHRLICHMAN. Yes, sir.

Mr. BRAY. Had there been a movement to replace him at that time?

Mr. EHRLICHMAN. There was no movement, no, sir. It was afterward.

Mr. BRAY. How long afterward?

Mr. EHRLICHMAN. Well, let's see—a day or two, I guess.

Mr. BRAY. Do you have any idea why he did it, why he destroyed those?

Mr. EHRLICHMAN. I cannot assign any sort of a reasonable reason, Mr. Bray. The understanding when he received the documents, Mr. Dean told him in effect that these were part of the contents of the Hunt safe. The reason that they were given to him directly was that they were politically sensitive. Mr. Dean said they did not relate to the Watergate case, but with the FBI leaking the way it was, he didn't feel he wanted to turn them over to ordinary agents. He wanted to give them to Mr. Gray personally.

Mr. BRAY. I can see why they would be given to Mr. Gray.

Mr. EHRLICHMAN. Yes, sir.

Mr. BRAY. It is not as easy to understand why he would destroy them.

Mr. EHRLICHMAN. I am trying to trace my recollection of the way he received them. Apart from that one conversation, what anybody told him, I can't say.

Mr. BRAY. Do you know what those documents consisted of?

Mr. EHRLICHMAN. No, sir, I never saw them. They were in a sealed envelope.

Mr. BRAY. The first information you had on it was when Gray told you he destroyed them?

Mr. EHRLICHMAN. Yes, sir.

Mr. BRAY. Did the President make any remark about that?

Mr. EHRLICHMAN. Yes; he did.

Mr. BRAY. Would you care to say, or would that be executive privilege?

Mr. EHRLICHMAN. It was an exclamation.

Mr. BRAY. I think I would, too.

Mr. HOGAN. Mr. Chairman.

Mr. NEDZI. Mr. Ehrlichman, what was your relationship with General Cushman?

Mr. EHRLICHMAN. I didn't have one, Mr. Chairman. I had talked to him several times on business, as I related in the statement, and that is all.

Mr. NEDZI. There was nothing in your previous experience which caused you any kind of irritation with him?

Mr. EHRLICHMAN. No, sir, none at all. We have had only the most cordial relationships, as far as I am concerned.

Mr. NEDZI. Based upon recent events, do you still regard him as a highly competent intelligence officer?

Mr. EHRLICHMAN. From everything I know, yes, sir.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. Thank you, sir.

I am troubled by your relationship with David Young and Egil Krogh at the critical time, Mr. Ehrlichman. I get the distinct impression they indeed were working for you, were they not?

Mr. EHRLICHMAN. Technically Mr. Young was on the payroll of the National Security Council. Mr. Krogh was on the domestic staff in the White House and had worked for me ever since I first came there. So we had a customary reporting line. When Mr. Young was assigned to this special unit then he adopted a new reporting line which was through me.

Mr. HOGAN. So that he was regularly reporting through you to whom?

Mr. EHRLICHMAN. To the President.

Mr. HOGAN. To the President?

Mr. EHRLICHMAN. Yes, sir.

Mr. HOGAN. Do you consider yourself to be well aware of what this special investigating unit was doing on a day-to-day basis?

Mr. EHRLICHMAN. No.

Mr. HOGAN. Who was being made aware of it?

Mr. EHRLICHMAN. Well, to the extent anybody was, I was.

Mr. HOGAN. You were?

Mr. EHRLICHMAN. But the point was, there would be large periods of time, extensive periods of time when I would not be made aware of anything.

Mr. HOGAN. Now, who else was working for this special investigation unit in this unit besides Mr. Krogh and Mr. Young?

Mr. EHRLICHMAN. Liddy, who was previously working for Krogh, was assigned to this. Hunt, who was previously working for Colson, was assigned to this, and on a part-time basis I believe a man named Walter Minnik was in and out.

Mr. HOGAN. Was Mr. McCord in this unit at any time?

Mr. EHRLICHMAN. No. As far as I know he was never employed by the White House.

Mr. HOGAN. He wasn't? Then this made you well aware of the profiles operation, the Ellsberg profiles operation?

Mr. EHRLICHMAN. What is that? You mean the psychiatric?

Mr. HOGAN. Yes.

Mr. EHRLICHMAN. No; I was not well aware of it, I don't think, until it was well along.

Mr. HOGAN. Then, Young, who was carrying on on his own——

Mr. EHRLICHMAN. Yes.

Mr. HOGAN. He was?

Mr. EHRLICHMAN. Their charter ran in effect direct from the President to do those things necessary to find out the source of these leaks, particularly the SALT leaks.

Mr. HOGAN. Were you surprised Mr. Helms was gravely concerned about doing a domestic profiles operation?

Mr. EHRLICHMAN. Yes, I was.

Mr. HOGAN. What did you do about it?

Mr. EHRLICHMAN. I didn't learn it until I read his testimony from the Senate subcommittee.

Mr. HOGAN. You weren't surprised yourself at the time that the CIA was asked to do a domestic profile operation?

Mr. EHRLICHMAN. It didn't mean anything to me when I first heard about it. I didn't know what a psychiatric profile was for. It looked to me like kind of a waste of time.

Mr. HOGAN. And is it your testimony this special investigations unit was not in operation at the time the request was made of General Cushman for technical assistance?

Mr. EHRLICHMAN. It was not in operation on the 22d of July, which was the date of his first visit with General Cushman. I don't know that he had any other business. I guess his only business was with General Cushman.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. HÉBERT. The domestic profile, my recollection of the testimony we have is at least a protest was made that the charter of CIA did not allow domestic profiles, and the name of Castro was brought into it as coming through from somebody at the White House, a profile had been made on Castro, and the White House wanted a similar profile on Ellsberg.

Mr. EHRLICHMAN. I think that is correct, Mr. Chairman. My first recollection of hearing about this was in terms of what the National Security Council had been provided within the past about foreign leaders or people that the President was going to negotiate with or somebody of that kind, and David Young told me how great these were, and how helpful they had been in preparation for negotiations and this kind of thing.

I didn't know such a thing existed prior to that.

Mr. HÉBERT. But the question of the impropriety——

Mr. EHRLICHMAN. Was never raised with me.

Mr. HÉBERT. Never raised with you?

Mr. EHRLICHMAN. No, sir. The point I make in my statement is that there were occasions when I had meetings with Director Helms all through that period of time which in retrospect was the time that the CIA was working on this thing, and he never raised the question with me.

Mr. HÉBERT. Did you know before you saw the final report on Ellsberg that there was one previous profile that had been rejected as meaning nothing, and they had gone back to get another one that looked good?

Mr. EHRLICHMAN. I believe I had learned that by that time, yes.

Mr. HÉBERT. Then you knew previously. Who turned that original profile down?

Mr. EHRLICHMAN. I believe David Young did.

Mr. HÉBERT. Young himself?

Mr. EHRLICHMAN. Yes. That I gleaned from the Senate record.

Mr. HÉBERT. I want to know what you know.

Mr. EHRLICHMAN. That is hearsay. I gleaned that from the Senate record.

Mr. HÉBERT. If it is hearsay, it is hearsay. Most of the things we have around here are hearsay. I want to establish where did this reach in the White House? I can understand why you want some kind of information on Ellsberg. I consider this national security. This man stole the papers. He admitted he stole them. In my book the trial should last an hour, if that long, instead of the long, dramatic thing they put on out there. It was up to the national security to find out who this man is who had access to secret papers; whether it was secret or not is not involved. It was stamped "Secret." He allegedly stole them and gave them out. That is a simple conclusion.

I can well say I believe anybody in the Government has a right to find out about those things jeopardizing our security.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. Also I propose this same matter. I can't understand today why they wanted especially a profile on Ellsberg. I was thinking from the standpoint of the District Attorney. After all, you want to convict the guy. You are not going to help the defense. But as I understand you to say, Mr. Ehrlichman, one reason they had the profile was to determine if he was the type that would be involved in a conspiracy with another country.

Mr. EHRLICHMAN. That is what they explained to me, and I had had a phone call—

Mr. BRAY. That is the first time it made any sense to me. Before that it just seemed like an insane thing. I can understand some reason for it.

Mr. EHRLICHMAN. I had had a phone call from the Assistant Attorney General advising me they had picked up on an intercept that the Pentagon papers had in fact been turned over to the Soviet Embassy. I passed that along to Young and Krogh quite early in the game, so they had that information as well.

Mr. NEDZI. Wasn't that subsequently established that they had in fact been turned over to the Soviet Embassy?

Mr. EHRLICHMAN. I don't know, Mr. Chairman. I always believed that, based on that information. I have seen it both ways now.

Mr. NEDZI. Mr. Ehrlichman, getting back to the President's statement, can you point to any other inconsistencies in this statement, the facts as you know or recollect them?

Mr. EHRLICHMAN. I would be glad to look at it, Mr. Chairman. Those are the only two that stick in my mind that I had a problem with, but I would be glad to go through it, if you would like me to.

Do you want me to do that?

Mr. NEDZI. Yes, if you would.

Mr. EHRLICHMAN. All right.

Mr. Chairman, I have not had a chance to check any notes or records that might exist against this. The only qualification that I might in any way make to it would be where the President describes his decision to inform the Justice Department of the facts of the break-in of the psychiatrist's office. It has come to my attention that in point of

fact the Justice Department was aware of the material facts considerably in advance of the President's transmitting that information to the Justice Department. I think probably the drafter of that statement may not have had the same information that I did.

I had been informed by Mr. Dean that Henry Petersen, the Assistant Attorney General, was in possession of the basic facts long before.

Mr. NEDZI. The basic facts of what?

Mr. EHRLICHMAN. Of the break-in.

Mr. NEDZI. Of the break-in?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Of the Ellsberg break-in?

Mr. EHRLICHMAN. Yes, sir.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. Today do you believe that there was any CIA involvement in the entire Watergate/Ellsberg matter?

Mr. EHRLICHMAN. No.

Mr. HOGAN. None whatsoever?

Mr. EHRLICHMAN. None that I know of. I have no basis upon which to form any belief that there was.

Mr. HOGAN. Did you know Kathleen Chenow?

Mr. EHRLICHMAN. No.

Mr. HOGAN. How about the name of Ogarrio?

Mr. EHRLICHMAN. No.

Mr. HOGAN. In that alleged conversation in which Mr. Gray indicated it was not possible for him to suppress the investigation, the conversation with you, Mr. Ehrlichman, would it mean anything if it was also stated that he allegedly said that he would resign first before he would become in any such?

Mr. EHRLICHMAN. I don't recall ever hearing Mr. Gray say that.

Mr. HOGAN. My last question, Mr. Chairman.

You relied on some testimony of Mr. Schlesinger in your statement, I believe, Mr. Ehrlichman. So, I might tell you in his testimony before us he again referred to the minutes of the CIA meeting on July 8, 1971, attributing to you a statement that Howard Hunt had been appointed a White House security consultant.

Did you make such a statement to General Cushman? This is a part of the idea of your requesting technical assistance.

Mr. EHRLICHMAN. Again, I have no recollection of ever imparting that information to General Cushman. At that point in time I doubt that I would have used the term "security consultant," in any event. That is not a term that is meaningful to me. It is not what I thought Hunt was doing in that time frame, and it just doesn't ring true to me.

Mr. HOGAN. In that same vein, in that record of testimony that the chairman referred to between Mr. Hunt and General Cushman, Mr. Hunt referred to you as being the individual who was knowledgeable in the area of his endeavors.

Do you have any reason to believe that he had a basis for making that statement?

Mr. EHRLICHMAN. Well, he had the basis that he and Mr. Colson had been to my office and made me knowledgeable of the areas of his endeavors, but those areas were not then anything with relation to this special unit.

Mr. HOGAN. Was it anything apart from the Pentagon papers?

Mr. EHRLICHMAN. It was the Pentagon papers.

Mr. HOGAN. Anything apart from the Pentagon papers?

Mr. EHRLICHMAN. Not that I know of. That was what he was engaged in on that day of his visit to me.

Mr. HOGAN. The CIA was not raised during that conversation?

Mr. EHRLICHMAN. I certainly don't recall it.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. NEDZI. Mr. Ehrlichman, the bells have rung for a quorum. I don't believe there are any further questions, so the committee will stand recessed until further call of the Chair.

Mr. EHRLICHMAN. Thank you, Mr. Chairman.

Mr. NEDZI. Mr. Ehrlichman, following our session with Mr. Halde-
man the other day I had indicated to him he could respond to the press
that this was an executive session and he would be under no obligation
to comment. Subsequent to that comment to him, I felt that perhaps
I was misreading his question to me, and that he desired to comment
to the press. My suggestion to him was merely for the purpose of
providing him with a ready reason for not commenting.

Mr. EHRLICHMAN. I would appreciate having the same reason.

Mr. BRAY. You have.

Mr. STRICKLER. Mr. Haldeman did not want to comment, Mr.
Chairman.

Mr. NEDZI. The subcommittee has absolutely no objection to your
making whatever comments you want to make.

Mr. EHRLICHMAN. No; I don't desire to make any, Mr. Chairman.
I would like to say if I might, I was notified by the chairman this was
a closed session and I ought not comment on the proceedings, and I
don't intend to.

Mr. HÉBERT. That is the rules of the House.

Mr. NEDZI. That is inoperative right now.

Mr. HÉBERT. That is in executive sessions, not here.

Mr. EHRLICHMAN. If you don't mind, that is the basis on which I
want to put this.

Mr. HÉBERT. You are on your own.

Mr. EHRLICHMAN. I understand, but I don't want to put words in
your mouth.

[Whereupon, at 3:53 p.m. the subcommittee adjourned, subject to
call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Friday, June 22, 1973.

The subcommittee met, pursuant to adjournment, at 9:30 a.m. in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will please come to order.

This morning we are continuing our hearings into the entire Watergate-CIA matter, and we have as our witness Mr. James W. McCord.

Mr. McCord, would you rise and take the oath, please.

Do you swear that the testimony you are about to give in this hearing is the truth, the whole truth, and nothing but the truth so help you God?

Mr. McCORD. I do.

Mr. NEDZI. Please be seated.

At this time do you want to read your statement for the record, Mr. McCord?

Mr. McCORD. I don't have any at the present time, sir. I am prepared to answer the questions.

Mr. HOGAN. Do you want to read the memorandum into the record?

Mr. McCORD. Sir, it would be easier for you to hear my voice, if it is. I can move up to the next table. My voice does not carry too well.

Mr. NEDZI. It may be easier for you.

**STATEMENT OF JAMES McCORD, FORMER CIA EMPLOYEE,
ACCOMPANIED BY COUNSEL, BERNARD FENSTERWALD**

Mr. McCORD. Sir, I am prepared to read the memorandum. Subject: Pressure on the defendants to blame the Watergate operation on CIA, and other matters.

I have previously referred to political pressure which was applied to the seven Watergate defendants.

One area of pressure which was applied was that of December 1972 in which intense pressure was applied on some of the defendants to falsely claim for purposes of a defense during the trial in January 1973, that the Watergate operation was a CIA operation. This would have had the effect of clearing the Committee for the Re-Election of the President and the White House of responsibility for the operation.

In two separate meetings in December 1972, it was suggested that I use as my defense during the trial the false story that the operation was a CIA operation. I refused to do so.

I was subsequently informed by Bernard Barker just before the trial began in January 1973 that E. Howard Hunt and other unnamed

persons in Miami had brought intense pressure to bear against the Cuban-Americans who were defendants to use the same story as their defense, that my stand taken against it had been the decisive factor causing this ploy to be dropped, and that Hunt was very bitter about it. Hunt's bitterness was later revealed early in the trial when the Cubans advised that Hunt had said that I "was responsible for our being in the plight we were in for not going along with the CIA thing."

At a later time, I heard from Barker that he had been told that Cuban money was suspected of being funneled into the McGovern campaign. I have no knowledge that this suspicion was ever verified.

The two December 1972 meetings with me were on December 21, 1972, and on December 26, 1972. Present at the first meeting with me at the Monocle Restaurant in Washington, D.C., were Gerald Alch and Bernard Shankman, my attorneys. Present at the second meeting was Gerald Alch, and the meeting was at his offices in Boston, Mass.

In the first meeting, Alch stated that he had just come from a meeting with William O. Bittman, attorney for E. Howard Hunt, and I received the impression in the discussion that followed that Alch was conveying an idea or request from Bittman. There followed a suggestion from Alch that I use as my defense during the trial the story that the Watergate operation was a CIA operation. I heard him out on the suggestion which included questions as to whether I could ostensibly have been recalled from retirement from CIA to participate in the operation. He said that if so, my personnel records at CIA could be doctored to reflect such a recall.

He stated that Schlesinger, the new Director of CIA, whose appointment had just been announced, "could be subpoenaed and would go along with it."

I had noted in the newspapers of that day, December 21, 1972, that it had been announced by the White House that Schlesinger would take over as Director of CIA, and that it had been decided that Pat Gray would be supported by the White House to be permanent Director of the FBI.

Alch went on to mention testimony, or a statement, made to Federal authorities by Gary Bittenbender, a Metropolitan Police Department undercover police officer, whom I had seen at the courthouse on June 17, 1972, when the five of us who were arrested and arraigned, in which Bittenbender purportedly claimed that I had told him that day that the Watergate operation was a CIA operation.

I advised Alch that if Bittenbender had made such a statement under oath that he had perjured himself, and that I had not made such a claim. Bittenbender can be interviewed to determine the circumstances under which he had made such a statement, and whether his statement was in fact an honest error of impressions based on events which occurred in court on that day, which could have mislead him. Those were that some of us were identified in the hearing in court as formerly connected with CIA.

Alch went on to mention the name of Victor Marchetti whom he was considering calling to describe CIA training in which its employees were trained to deny CIA sponsorship of an operation if anything went wrong and its participants were arrested.

He also requested that I meet with him in Boston on December 26, 1972, which I did. There he opened the discussion by showing me a

written statement of an interview with Bittenbender in which Bittenbender claimed that on June 17, 1972, I had told him that the Watergate operation was a CIA operation. I repeated to Alch my earlier statement, that Bittenbender had either perjured himself, or had made a false statement to Federal authorities.

I told Alch that I would not use as my defense the story that the operation was a CIA operation because it was not true.

In addition, I told him that even if it meant my freedom, I would not turn on the organization that had employed me for 19 years, and wrongly deal such a damaging blow that it would take years for it to recover from it, and finally that I believed the organization to be one of the finest organizations of any kind in the world and would not let anyone wrongly lay the operation at the feet of the CIA.

By now, I was completely convinced that the White House was behind the idea and ploy which had been presented, and that the White House was turning ruthless, and would do whatever was politically expedient at any one particular point in time to accomplish its own ends.

In addition, I earlier had determined to tell the true story of the Watergate operation, and it was now only a matter of a propitious time to do so.

On Friday, December 29, 1972, I visited Bernard Shankman's office in Washington, D.C., and let him read a statement which I had prepared, which I proposed to read to the press on December 30, 1972, releasing Alch as my attorney. I believed that although Shankman had been present at the first meeting he was not a party to the events previously described.

Shankman suggested that I give Alch an opportunity to meet with me and explain why he had undertaken the course which he had, and such a meeting was set up for Tuesday, January 2, 1973, in Washington.

Alch failed to appear, and I delivered a letter to Judge Sirica, releasing Alch as my attorney. Alch immediately called, asked to meet with me on January 3, 1973, and asked to continue as my attorney. We met and Alch stated that he, in conveying the request made of me on December 21 and December 26, 1972, was acting out of what he felt to be was my own best interests. By this time, I was convinced that the ploy to lay the operation at CIA's doorstep had been headed off, and agreed to give him a second chance.

By this time, I was also convinced that the White House had fired Helms in order to put its own man in control at CIA, but as well to lay the foundation for claiming that the Watergate operation was a CIA operation, and now to be able to claim that "Helms had been fired for it."

There had been indications as early as July that the Committee for the Re-Election of the President was claiming that the Watergate operation was a CIA operation.

Mrs. Hunt had told me in late July 1972 that Paul O'Brien had told Howard Hunt in July that the Committee to Re-Elect the President had originally informed him that the Watergate operation was a CIA operation. Mrs. Hunt said that her husband had denied to O'Brien that it was a CIA operation. By early December 1972 it appeared that the

White House was beginning to make its move. The events of December 21 and December 26, 1972, only confirmed this in my mind.

Further, based on an early discussion with Robert Mardian in May 1972, it appeared to me that the White House had for some time been trying to get political control over the CIA assessments and estimates, in order to make them conform to "White House policy." One of the things this meant to me was that this could mean that CIA estimates and assessments could then be forced to accord with DOD estimates of future U.S. weapons and hardware needs. This could be done by either shifting an intelligence function to DOD from CIA, or by gaining complete political control over it at CIA.

Among other things, this also smacked of the situation which Hitler's intelligence chiefs found themselves in, in the 1930's and 1940's, when they were put in the position of having to tell him what they thought he wanted to hear about foreign military capabilities and intentions, instead of what they really believed, which ultimately was one of the things which led to Nazi Germany's downfall.

When linked with what I saw happening to the FBI under Pat Gray—political control by the White House—it appeared then that the two Government agencies which should be able to prepare their reports, and to conduct their business, with complete integrity and honesty, in the national interest, were no longer going to be able to do so. That the Nation was in serious trouble, has since been confirmed by what happened in the case of Gray's leadership of the FBI.

E. Howard Hunt has additional information relevant to the above. Hunt stated to me on more than one occasion in the latter part of 1972 that he, Hunt, had information in his possession which "would be sufficient to impeach the President."

In addition, Mrs. E. Howard Hunt, on or about November 30, 1972, in a personal conversation with me, stated that E. Howard Hunt had just recently dictated a three-page letter which Hunt's attorney, William O. Bittman, had read to Kenneth Parkinson, the attorney for the Committee to Re-Elect the President, in which letter Hunt purportedly threatened "to blow the White House out of the water."

Mrs. Hunt, at this point in her conversation with me, also repeated the statement which she, too, had made before, which was that E. Howard Hunt had information which could impeach the President.

I regret that this memorandum has taken this long to set forth. In view of the nature of the information which I had to furnish, however, it appeared that there was no other way to adequately set this material forth, and to do so in the proper context, without deleting material highly relevant to the events being reported.

I shall be glad to appear and answer questions under oath on the material which appears in this memorandum.

That concludes the statement.

I have a biography, my attorney does, on myself and my work at the CIA, if that would be of any use to the committee.

Mr. NEDZI. Do you have a number of copies?

Mr. FENSTERWALD. Yes.

Mr. NEDZI. We will be pleased to make that a part of the record.

[The following information was received for the record:]

BIOGRAPHICAL SKETCH OF JAMES W. McCORD, Jr.

Born January 26, 1924, Wavrika, Okla. High school, McLean and Electra, Tex. Education: Master of Science, George Washington University, 1965. Bachelor of Business Administration, University of Texas, 1949. Graduate, Class of 1965, Air War College.

(1942-1943)—Federal Bureau of Investigation, Washington, D.C. and New York City. Radio Intelligence duties.

(1943-1945)—U.S. Army Air Corps officer.

(1948-1961)—Federal Bureau of Investigation, Special Agent, San Diego and San Francisco, California.

(1951-1970)—Central Intelligence Agency; Chief Physical Security Division, Office of Security, in last assignment; earlier, Chief Technical Security Division, Office of Security.

(1962-1964)—Central Intelligence Agency Senior Security Officer in Europe; Deputy Chief of a Personnel Security Staff, 1950's early 1960's; retired August, 1970 after 25 years Federal Service.

Military: Lt. Colonel, United States Air Force Reserve Former Commander, National Wartime Information and Security Program Detachment, Washington, D.C., U.S.A.F.R.

Employment: Owner, Security International, Rockville, Maryland.

Civic and other: Member, National Legislative Affairs Board, National Association for Retarded Children. Member, Board of Directors, Cerebral Palsy Association and Montgomery County Workshop for the Handicapped, Montgomery County, Maryland.

Awards: Distinguished Service Award for Outstanding Performance of Duty, from Director of CIA, August, 1970.

Mr. NEDZI. Mr. McCord, when were you employed by the CIA?

Mr. McCORD. I was employed first in August 1951.

Mr. NEDZI. First you say in August of—

Mr. McCORD. 1951.

Mr. NEDZI. 1951.

Mr. McCORD. Yes, sir.

Mr. NEDZI. You continued to be an employee of the Agency until 1970?

Mr. McCORD. Yes, sir. I was retired after 25 years of Federal service in August 1970.

Mr. NEDZI. Where was the other service?

Mr. McCORD. I had worked earlier with the Federal Bureau of Investigation from 1942, March 1942, until 1944, and again in 1948 to 1951, which accounted for a portion of the additional Federal service.

Then I was given credit for my Army Air Corps service in World War II, making a total of 25 years' Federal service.

Mr. NEDZI. What did you do after you left the CIA in 1970?

Mr. McCORD. The first year I spent in a nonpaid layman's type of work for an institution for the handicapped, operated by the Catholic Archdiocese of Washington where my daughter goes to school, called the Kennedy Institute. The work there was essentially assisting the director of the institute in trying to expand the programs and facilities for the handicapped, particularly in the training vocational educational field.

Subsequent to that, in September 1971, I was on the Committee to Re-Elect the—approached to go to work by the Committee to Re-Elect the President.

Mr. NEDZI. Who approached you?

Mr. McCORD. I was initially contacted by a member of the Secret Service, who I had known, Mr. Alfred Long, who simply told me in about 1 minute's conversation over the telephone that there was going to be an opening, or that I was going to be contacted by a White House staff member regarding the campaign security position. He didn't state with which party. He just simply called me and asked if I would be interested, and I said I would like to know more about it. And was subsequently contacted, I think that day, or 2 or 3 days later by Mr. John Caulfield, who I believe at the time had the title of something like coordinator of Federal law enforcement for the White House Staff.

Mr. NEDZI. Mr. Long, to your knowledge, was a member of the Secret Service?

Mr. McCORD. Yes, sir. He and I had known each other in counterpart relationship when I had worked at CIA. We had known each other 5 or 6 years. I think his only—I am certain his only interest in the whole matter was simply that the White House had been inquiring as to who might have capabilities in the general overall security field.

He had known me, I have respect for him, I would assume he thought I had the capability perhaps to fill such a position.

Mr. NEDZI. Then you were contacted by Mr. Caulfield?

Mr. McCORD. By John Caulfield. I was contacted by him in early September 1971.

Mr. NEDZI. 1971?

Mr. McCORD. Yes, sir.

Mr. NEDZI. And when did you actually become an employee of the Committee to Re-Elect the President?

Mr. McCORD. I first was engaged in, I think I was put on the payroll beginning the 1st of October, 1971.

Mr. NEDZI. Were you engaged in any other activities between the time you retired from the CIA and the time you went on the payroll in October of 1971?

Mr. McCORD. I had begun to set up a private security organization of my own after finishing the work with the Kennedy Institute. This was during the summer. I had done no active work in it—

Mr. NEDZI. The summer of which year?

Mr. McCORD. Summer of 1971. I had taught at some college, part time, in the spring, and in the fall of 1971. I taught in the semi-industrial field, a couple of courses.

Mr. NEDZI. How far did you get in setting up your own security agency?

Mr. McCORD. Well, I obtained office space in 1971, and subsequently incorporated as McCord Associates in November 1971 and employed a secretary and subsequently some other personnel, some of whom are still with me.

Mr. NEDZI. You still have the agency?

Mr. McCORD. It has changed names because of the publicity that has been attendant to this event, but—the Watergate event, it is still operating, still in the security field, Security International.

Mr. NEDZI. What kind of work do you do?

Mr. McCORD. Security consulting, security investigations. I do investigative work for other investigative agencies all over the country

and perform other services, investigating services for people all over the United States. We are getting into some about the 1st of July.

Mr. NEDZI. How large a staff do you have?

Mr. McCORD. A total of five people, including myself.

Mr. NEDZI. How did you recruit people who are with you?

Mr. McCORD. One of the men that works for me had been an Air Force lieutenant colonel that I had known through my church. I knew he was retiring. He had been an Air Force logistics officer, and I needed a good business manager. He had the capabilities and I asked him if he would work for me.

He came to work in early 1972—not early, but mid-1972.

The secretary, she had contacted me, or I had contacted some of my friends that formerly worked for CIA, and inquired—

Mr. NEDZI. How did you go about doing that?

Mr. McCORD. I believe—my best recollection is that I knew through the CIA Retirement Board, or organization, that they had a list of personnel formerly with CIA who either were interested in part-time work or full-time work, retirees, or others who had left, and my best recollection is that I contacted them, or made it known to them that I was looking for a secretary.

Mr. NEDZI. Who did you contact there?

Mr. McCORD. Sir, I can't recall. I can refresh my memory on it, think back on it, and subsequently submit that to you. I think I had a telephone number or two of the CIA retirement people and, I am sure what happened was I simply called and whoever answered the phone I inquired about secretarial help. My best recollection is that I was given one or two or three names and that I called this young woman and she came by for an interview—I liked her appearance and hired her.

I am quite convinced that is the way it transpired. I will try to recall who I contacted—I may or may not be able to do so.

Mr. NEDZI. How about the other people? Do you have any other CIA people?

Mr. McCORD. Her husband subsequently had been working—her husband had been working in the real estate field, and he indicated to me that the income was not great from that, that he was seeking other employment, and I asked him to come in and see if he would be interested in working for me. He had worked for CIA, for a number of years, had left. I don't believe he was under full retirement status but he had retirement, I think, deferred retirement arrangement.

At any rate, I employed him. He is still working for me.

Mr. NEDZI. When was this?

Mr. McCORD. My best recollection, it would have been in the spring of 1972. And I think probably around February or March, somewhere in there. I can check the payrolls and give you more accurate information.

Mr. NEDZI. Were there any others with you who were formerly with the CIA?

Mr. McCORD. No, sir.

Mr. NEDZI. How did you finance this operation?

Mr. McCORD. Well, it financed itself fairly easily, in that my only expenses to begin with was the office expense, the office rent, and the part-time secretary, to begin with. By that time, say the 1st of Janu-

ary 1972, I was receiving income from the Committee to Re-Elect the President and was doing consultant work, both part-time jobs, prior to January 1972, with the Republican National Committee here in Washington.

Mr. NEDZI. What kind of part-time job?

Mr. McCORD. In both cases they were part-time consulting, setting up, in the case of the Committee to Re-Elect the President, a security arrangement system for the committee, and in the case of the—

Mr. NEDZI. What did that consist of?

Mr. McCORD. It consisted of looking over, to begin with, in discussions with the administrative chief of the committee, looking over the overall plans for 1972 for the campaign and determining what in the way of a security program would be needed, what guards we would need, what protective measures would be needed around the committee itself, whether they be alarms or whether they be safes and locks to properly protect the property that was there.

Mr. NEDZI. You were concerned about the physical security of that office?

Mr. McCORD. The physical and personnel security, protection, essentially the protection of the life of the personnel there, and the protection of the facilities that were there.

Mr. NEDZI. Protection of the life of the personnel?

Mr. McCORD. Well, insuring that the personnel who were there working would be working under essentially safe conditions. We knew we were faced with demonstrators, and so on. We knew Mrs. Mitchell, who was working there, traveled a great deal, was subject to a certain amount of harassment, received threatening phone calls, and so on. Obviously it was desirable we set up such protection for her while she was in the building, as was appropriate.

Mr. NEDZI. What kind of protection did you provide for her?

Mr. McCORD. Well, we had guards on the various floors where the committee had offices.

I was asked by Mr. John Mitchell to, after the 1st of January, 1972, to hire security for—a security man for her in her travels, and he would also be with her while she was in Washington in between her speaking trips and tours. Essentially this sort of thing.

Mr. NEDZI. Did you hire a guard for her?

Mr. McCORD. Yes, sir. I employed several during the course of her work with the committee as a staff member there.

Mr. NEDZI. How did you recruit these personnel?

Mr. McCORD. Through reference. I tried various ways of finding among FBI or ex-Secret-Service, or other personnel that were available. I contacted the Society of ex-FBI Agents in New York City. They gave me a list of a dozen people, perhaps, who had retired from the FBI. I was seeking contact of some of those to see who would be interested. This is how the first man employed by the committee here was employed—was obtained.

Mr. NEDZI. Did you make any contact with the CIA?

Mr. McCORD. No, sir.

Mr. NEDZI. What was the extent of your contact with the CIA during this period?

Mr. McCORD. My recollection, during that period, the only contacts that I had was in regard to the secretary.

Mr. NEDZI. Were other people referred to you?

Mr. McCORD. For employment you mean?

Mr. NEDZI. Yes.

Mr. McCORD. I had no calls from anyone at CIA, to my recollection, in regard to employment. I had after I started working for the Committee to Re-Elect the President, it was known that I was working there, and two or three men who had retired from the CIA or otherwise left called me, but not through any initiative of CIA. This was purely through their own initiative seeking part-time employment.

Mr. NEDZI. You are certain of that?

Mr. McCORD. I'm certain that the CIA did not contact me?

Mr. NEDZI. Yes.

Mr. McCORD. I'm trying to get an accurate—give an accurate and truthful answer, sir. To the best of my recollection I don't recall they contacted me in connection with any matters whatever during that period. If there is information to the contrary, I would be glad to elaborate on it.

Mr. NEDZI. Your work for the Committee to Re-Elect the President was considered by you a part-time job?

Mr. McCORD. It was up until the 1st of January, 1972. And then it was obvious it would occupy more time, and it was agreed at that time I would come abroad as a staff member for the committee as of the first of January that year.

Mr. NEDZI. Yet you didn't do the hiring for McCord Associates until after that time?

Mr. McCORD. No, sir, that is correct. In discussions with Mr. Odle, who employed me, in as early as October or November, when it was apparent this was going to occupy more and more of my time, I told him inasmuch as this work was not going to continue past November, that I desired to keep my business going in order that after November there would be a business for me to go back to, because I had no ambitions of going into Government service or anything of that sort.

He saw no objection to my continuing business operations, and I did so.

Mr. NEDZI. You were able to handle both responsibilities during that period of time without any problem?

Mr. McCORD. Well, it didn't present a problem. I would say the people I had hired were competent people, and the business manager I had took care of matter sufficiently for me so it didn't require much time.

Mr. NEDZI. How much were you paid by the committee?

Mr. McCORD. A part-time compensation from October 1, 1971, to December 31, approximately, \$650 a month, and after that a gross salary for the Committee to Re-Elect the President was a monthly salary of one-twelfth of \$20,000 a year, computed or calculated on a \$20,000 a year income.

Mr. NEDZI. You say Mr. Odle hired you? I thought Mr. Caulfield contacted you.

Mr. McCORD. Mr. Caulfield contacted me and referred me, took me over to Mr. Odle. The actual hiring, as I understood it, was done by Mr. Odle. I'm sure it had the approval of the White House through Mr. Caulfield, perhaps Mr. Dean, before I was subsequently hired.

Mr. NEDZI. Perhaps Mr. Dean what?

Mr. McCORD. That it probably had his concurrence. I understood that it did.

Mr. NEDZI. Who were you supposed to work for?

Mr. McCORD. I reported directly to Mr. Odle, who was the administrative chief of the organization. I was not contacted except for the work for Mrs. Mitchell, in which I sort of had two channels for that, one through Mr. Odle and one through Mr. and Mrs. Mitchell, reporting to Mrs. Mitchell on the matters that were of interest to her in connection with her own security.

Mr. NEDZI. When were you first apprised of a Watergate operation?

Mr. McCORD. In early or mid-January 1972.

Mr. NEDZI. How did this come about?

Mr. McCORD. Through Mr. Gordon Liddy, who was general counsel at that time for the Committee to Re-Elect the President, in conversations with him. He had come aboard in mid-December 1971. We had a common background of FBI work. He would stop me in the halls and chat with me, and we would exchange war stories I suppose it would be called. It appeared from the very beginning that he was very interested in technical devices, bugging devices, and so on. It appeared in the early conversations that this was a professional—an interest in the state of the art, a professional interest, but nothing beyond that. Then it became more apparent later in January he had in mind something more than that.

Mr. NEDZI. Did he say what he had in mind?

Mr. McCORD. He subsequently came to do so.

Mr. NEDZI. What did he say?

Mr. McCORD. Essentially, that he had meetings forthcoming with the Attorney General, Mr. John Mitchell, and Mr. Magruder and Mr. John Dean, in which to boil it down. He said essentially he had meetings planned with them in which bugging operations were to be discussed and considered against the Democratic National Committee and other offices, including Mr. McGovern's headquarters, and ultimately at a later point in time he mentioned the Democratic National Convention site in Miami, Fla.

Mr. NEDZI. Did he charge you with any responsibilities in this respect?

Mr. McCORD. One of the subjects that was of common discussion from the time we first met was common area of interest in the matter of violence, perhaps directed against the Republican National Convention in which he had a responsibility and I had a responsibility.

Mr. NEDZI. How did he have a responsibility as counsel for the committee?

Mr. McCORD. I understood through delegation by John Mitchell, Mr. John Mitchell prior to and subsequent to his leaving the Department of Justice while he was serving as de facto head of the Committee for the Re-Election of the President. Insuring that there would be proper protection at the convention site against——

Mr. NEDZI. That is not normally the job of a general counsel, though, is it?

Mr. McCORD. No, sir, I don't think it is.

Mr. NEDZI. So what was your responsibility in this regard?

What kind of tasks were you assigned?

Mr. McCORD. My role for the convention was essentially insuring that where the Committee for Re-Election of the President personnel were going to be staying, whether in San Diego, first, later in Miami, that there was proper protection of the hotel facility, for both the offices and the living quarters of the people while there. Because we had reports that there were going to be sizable numbers of personnel demonstrators and so on at San Diego first and subsequently Miami. And the task was assigned to me very early of insuring the facility was such where we lived and where offices were also to be had, that there were proper security measures in effect there.

Mr. NEDZI. What did you do to carry out these requirements or responsibilities?

Mr. McCORD. There were continuous discussions with Liddy in connection with his responsibility I just mentioned and subsequently a trip with four or five members of the White House staff including Mr. Bill Timmons, in early June 1972 to Miami, where 2- or 3-day exercise was held—my responsibility, which was to survey the Doral Beach Hotel and determine what we were to need there in the way of guards—and other maintenance. I completed that survey, and reported to Mr. Timmons on behalf of the Committee to Re-Elect the President.

Mr. HÉBERT. Clemmens? I didn't get the name.

Mr. McCORD. William Timmons.

Mr. NEDZI. Were there any what might be termed offensive operations planned at this time?

Mr. McCORD. None of mine, in this connection. There were some in connection with my official duties on the Committee to Re-Elect the President in connection with the operations Mr. Liddy was undertaking, in connection with Mr. Mitchell and Mr. Dean.

There was at Miami the bugging operation I referred to in the previous testimony.

Mr. NEDZI. Would you describe it for our record, please?

Mr. McCORD. I was advised in the early part of 1972 that over a series of meetings with Mr. John Mitchell, with Mr. Magruder, with Mr. Dean present and Liddy present, in at least some of the meetings, some of which were held in the Attorney General's offices, that the Democratic National Convention site at the Fontainebleau Hotel in Miami was to be one of the targets subsequently in July 1972, when their convention was to convene.

That there was to be a bugging effort undertaken there along with other—such other operations, such as photography, and that this priority or assignment was conveyed to Mr. Liddy who was in charge of the operation by Mr. John Mitchell.

References to this were made fairly well continuously by Liddy to me from, say, early February 1972 on through June 17, 1972.

Mr. NEDZI. Were you asked to assist in this project?

Mr. McCORD. I was; yes.

Mr. NEDZI. What were you asked to do?

Mr. McCORD. I was asked to perform the role of a member of the team under Mr. Barker, under Mr. Hunt and Liddy, which my role was that of electronic technician to install the devices that were to be used. I might say in connection with the site in Miami, Fla., I know of

nothing that transpired there in the way of overt acts other than the planning discussed here. I don't know of any measures beyond that, except one or two conversations with Hunt and Liddy, in which it was stated that they had plans for the Fontainebleau Hotel, and saw the plans in both Liddy and Hunt at one time. A statement by Hunt that they had someone working at the Fontainebleau Hotel was presumably in the maintenance force or engineering staff there that was able to gain entry, permit entry for personnel in this operation in the Fontainebleau.

Mr. NEDZI. When you say you saw the plans, what did they look like?

Mr. McCORD. They were rolled blueprints, several pages of blueprints of the Fontainebleau Hotel. My best recollection was that Hunt said that they had been obtained from whatever public authority in Miami has such blueprints of record for public purposes.

Mr. NEDZI. At this time what kind of plans were made for the Watergate. I assume it was concurrent.

Mr. McCORD. Yes, sir. They were planning—Mr. Liddy told me there were planning sessions with the Attorney General in meetings in January and February, and a subsequent planning meeting, a subsequent meeting in which the operation was approved sometime in approximately 30 days after—I would estimate early February 1972. Following that approval, there were continuous discussions between he and I and Mr. Hunt. The plans were effectively undertaken to get the operations under way as requested by Mr. John Mitchell, so Mr. Liddy said.

Mr. NEDZI. What was your role to be in this project?

Mr. McCORD. That was the electronic technician, as a member of the team. Mr. Barker, conferring with Mr. Liddy. My job at the Democratic National Committee, for example, was to install the devices.

Mr. NEDZI. Did you install the devices?

Mr. McCORD. I did.

Mr. NEDZI. When?

Mr. McCORD. Memorial Day weekend 1972, and an effort was made in the second operation June 17, 1972.

Mr. NEDZI. Who was involved in this operation, to your knowledge, actually going into the Watergate?

Mr. McCORD. In the first operation there were planning sessions, and communications with Mr. Hunt and Liddy at the Watergate Hotel. They did not actually go in, but the operations were essentially launched from their hotel room at the Watergate, going into the Democratic National Committee. Barker and I, Martinez, Mr. Gonzales, Mr. Frank Sturgess, and as I recall three other men of Cuban extraction who purportedly were working for Mr. Barker and in turn Mr. Hunt.

Mr. NEDZI. Did you have any supervisory capacity over any of these individuals?

Mr. McCORD. No.

Mr. BOB WILSON. We are talking about the first entry in the Watergate?

Mr. NEDZI. Yes.

That obviously was a successful entry.

Mr. McCORD. Yes, sir.

Mr. NEDZI. Nobody knew about it until long after the fact?

Mr. McCORD. Yes, sir.

Mr. NEDZI. To your knowledge, were any Watergate employees involved in this operation?

Mr. McCORD. To my knowledge none, and I'm certain in my own mind that there were none.

Mr. NEDZI. There were no guards or anything of that sort who were contacted?

Mr. McCORD. None, whatever—none at all.

Mr. NEDZI. That assisted in the entry?

Mr. McCORD. No, sir.

Mr. NEDZI. Now, the next entry was when?

Mr. BOB WILSON. Could I ask a question on this?

Mr. NEDZI. Certainly.

Mr. BOB WILSON. I wonder, Mr. McCORD, what was the rationale behind having this whole army going in on a surreptitious mission. Wouldn't you just attract attention to yourself to have a squad like that? Did you plan that part of it or were you there just as the electronics technician?

Mr. McCORD. My role was only as the electronics technician. I did not plan the operation. I quite candidly didn't realize until about 3 or 4 days before the first entry there was going to be this many people. I commented on it to Liddy, specifically. It was decided that, nevertheless, that many people would be involved in the first operation, but in any subsequent work, that it would be a lesser number, and I re-emphasized after the first operation when it became quite clear at that hour of the morning, 2 o'clock in the morning we had entirely too many people present, it was a very hazardous activity to undertake with so many people.

Mr. BOB WILSON. The electronic device you dealt with, was that a telephone bug?

Mr. McCORD. Yes, sir.

Mr. BOB WILSON. Just one.

Mr. McCORD. There were two.

Mr. BOB WILSON. Two.

Mr. McCORD. Yes.

Mr. BOB WILSON. Did I understand they proved to be unsuccessful, inoperative as they say at the White House?

Mr. McCORD. I had questions along with many others as to why the second one which was installed did not operate. Two were installed in the telephone. One we were able to locate, in the receiver, and receive a reception from it. After a couple of days of searching because it was a very weak signal and deliberately. We did not want a very strong signal that could be picked up.

The second one I assume it was either faulty—the equipment was not working as it should—or there was shielding in the room it was in, in which the reception simply could not be picked up in the Howard Johnson Hotel.

It remained in place, the second one, until I advised the U.S. attorneys in April this year exactly which phone it was located in. They sent, as I understand it, the FBI there, subsequently found the device, it was stilling operating, had been operating but simply the shielding in the room did not permit it to be picked up where we were. It possibly

could have been picked up in this Watergate Hotel or the Watergate Apartment East, I don't know.

Mr. BOB WILSON. One more question: Jumping ahead to June 17. You were installing the electronic device. Was that to be installed in a telephone?

Mr. McCORD. There was a combination, sir. I was to replace it with another device.

Likewise, to install a room bug, so-called. It was not to be connected with the telephone, but which would permit the transmission of conversations say out of a room like this to O'Brien's office or his conference room, battery operated.

Mr. BOB WILSON. The room bug was battery operated. Is this the one they say took a 9-watt or 9-volt battery and had 9, 1-volt batteries wired together?

Mr. McCORD. Yes, sir; that is correct.

Mr. BOB WILSON. Was it 1 volt or 1 watt, you are an electrical expert, aren't you?

Mr. McCORD. I think we had 9-volt batteries. I don't recall the particular type we had there. That is my recollection.

Mr. BOB WILSON. Thank you.

Mr. NEDZI. Who recruited the men who joined you on this operation?

Mr. McCORD. I'm sorry, sir, there were nine, 1½-volt batteries.

Mr. BOB WILSON. Nine 1½-volt batteries?

Mr. McCORD. Yes, sir. I'm sorry.

Mr. NEDZI. Who recruited the men who joined you on this operation?

Mr. McCORD. My understanding from Mr. Hunt was that he had recruited either directly or through Mr. Barker the men of Cuban extraction plus Mr. Sturgess. I recruited Mr. Baldwin who worked in the Howard Johnson Motel.

I do not know how Mr. Hunt was recruited. I assume Mr. Liddy did.

Mr. NEDZI. How did you recruit Mr. Baldwin?

Mr. McCORD. He had been initially employed as a guard for Mrs. Mitchell, and that had not worked out satisfactorily with Mrs. Mitchell. He was unemployed and seeking other work. I used him subsequently in work against the demonstrators here for about 3 weeks. And then asked if he were interested in working in this particular operation for a short period of time. He indicated that he would be.

Mr. NEDZI. What was the problem with Mrs. Mitchell?

Mr. McCORD. I think basically personality disagreement. Not disagreement, but difference. I think she was rather meticulous who she wanted to work for her, and their personalities simply didn't match.

Mr. NEDZI. Was it the same group that made entry on both occasions?

Mr. McCORD. With the exception of the three Cuban-Americans in the first operation who were not present in the second. In other words, there were Barker, and me, and the other Cubans that were arrested with us. There was a total of five men.

Mr. ARENDS. As a layman on the street talking about the individuals involved, all gaining entry at one time. It looks like it was an army moving in, somebody wanted to get caught.

Mr. McCORD. It wasn't me.

[Laughter.]

Mr. McCORD. There were too many people, yes, sir.

Mr. ARENDS. In an operation like that, you couldn't help but draw attention somewhere in some way.

Mr. NEDZI. You led me to the next question, Mr. Arends. What were each of these individuals supposed to do?

Mr. McCORD. The role that they had, Mr. Barker and the Cubans were to photograph documents while I was performing my electronic task. Mr. Sturgess, and in the early operation the other men that were with him, the additional men were to be posted at two doors of the Democratic National Committee, and one man would be looking out the window to see if the police were arriving and that sort of thing.

Mr. NEDZI. Is there any significance to the hiring of Cubans?

Mr. McCORD. None that I know of, other than they were known to Mr. Hunt, who was in the operation, and presumably as I understood it, had worked with them before. The significance I would attribute to it, from what I have read in the press, presumably they had undertaken other entry and burglary operations before. I did not know them.

Mr. NEDZI. There was never any discussion as to specifically recruiting Cubans for this kind of operation for one reason or another?

Mr. McCORD. No, sir. None.

Mr. NEDZI. Were any of the individuals involved in this entry in the employ of the CIA at the time, to your knowledge?

Mr. McCORD. I do not know of any, sir. I would not know.

Mr. NEDZI. Was there ever any speculation among those with whom you spoke that they were in the employ?

Mr. McCORD. Mr. Hunt had advised me that some of the men at least had been used by him as I understood it, certainly Mr. Barker, during the Bay of Pigs, and I assumed——

Mr. NEDZI. That was substantially earlier, however. I'm referring at the time of the entry.

Mr. McCORD. Yes, sir.

Mr. Hunt never so advised me that any were working or had recently worked for CIA.

Mr. NEDZI. Who was your target at the Democratic National Committee?

Mr. McCORD. It was essentially Mr. O'Brien's telephone, the particular target that was of interest, but other, presumably other targets of opportunity so to speak which was the reason that Senator Oliver's phone, that the device was installed there, principally because the role he appeared to play as executive director of whatever it was called, the Democratic State chairman.

Mr. NEDZI. In your discussions about security, were there any historical references to the 1968 convention for example, the disturbances that occurred in Chicago?

Mr. McCORD. Continuous discussions of that concern, of that disturbance, and the bloodshed, and the violence that occurred there, almost a daily discussion among Liddy and me and other senior staff personnel, Mr. Odle, for example. And essentially to insure that did not reoccur, at least endangering the lives of the personnel of the Committee To Re-Elect the President while at the convention. This was a daily concern. It was a paramount concern, and took the uppermost concern in my mind. The matter of demonstrators was not the

concern. The matter of a very small element, 1 or 2 percent or whatever it might be within such a group, who were out to essentially cause bloodshed, damage to life and property, was the immediate concern of mine, and paramount concern. I knew property could be restored. I knew if anybody got hurt, somebody got killed, that could not be corrected.

Mr. NEDZI. Was there any reference to how the matter was handled in the 1968 convention?

Mr. McCORD. There was reference to the matter that, there had been a very large number of people in terms of the demonstrators, that there were people injured at Chicago at that Convention. In terms of whether or not you mean the police could have handled matters differently, there was some discussion of that, but the major problem was that of a small element of such demonstrators who were going to be present, who were saying they were going to be present, who were announcing in December 1971 they were going to be present, they were going to cause injury and cause trouble. That was the major concern.

Mr. NEDZI. Mr. McCord, in recent weeks, there has been some notice in the press that some of the demonstrations were actually inspired by the Committee to Re-Elect the President. Was anything of that nature discussed in your presence?

Mr. McCORD. Never. No, sir.

Mr. NEDZI. No one made any reference to that?

Mr. McCORD. Never at any time.

Mr. NEDZI. You have seen the items in the paper—

Mr. McCORD. I have.

Mr. NEDZI [continuing]. That I referred to?

Mr. McCORD. Yes, sir, I have seen them.

Mr. NEDZI. But as far as you are concerned that was not a part of the strategy of the operation that you were involved in?

Mr. McCORD. I never heard it mentioned by Liddy, by Hunt, by Barker, or by anyone else, no, sir.

Mr. SLATINSHEK. Mr. Chairman, before you move on, I would like to get a personal observation from the witness. The planning of the involvement in the Democratic headquarters offices and the preliminary planning, did you or any of your coworkers express any concern over the legal aspects of both breaking in—and that is what it was—breaking into someone's private residence, and doing something illegal. Had there been any such discussion? Would you comment on that?

Mr. McCORD. Yes, sir, there were such discussions. There were discussions with Liddy. I remember because he was chief of the operation, because he was also counsel, general counsel for the committee, and being a lawyer and expert, from the very earliest discussions he had told me that the matters were planned and going to be planned and discussed with the Attorney General, and subsequently I was told they had been reviewed with him, and Mr. John Dean, the counsel for the President. That he advised me the Attorney General had the legal authority to authorize such electronic operations under a signature of his, under a provision of law that permits this sort of thing. I basically was of the belief that the matter had been carefully considered by the Attorney General, had been carefully considered by John Dean, the counsel for the President, carefully considered between both offices, and I was, as I stated publicly, I had reached the conclusion that the

President personally approved it after some due thought when I felt or believed it had been referred to him by Mr. Mitchell before Mr. Mitchell would undertake—

Mr. SLATINSHEK. You have no firsthand knowledge of Mr. Mitchell, Mr. Dean, or anyone else other than what was communicated to you by Mr. Liddy?

Mr. McCORD. And by Mr. Hunt.

Mr. SLATINSHEK. By Mr. Hunt?

Mr. McCORD. That is correct.

Mr. BOB WILSON. On this same line of questioning. Was there ever any question in your mind what you were doing was illegal?

Mr. McCORD. I knew it was illegal. I knew also as I stated the Attorney General had the power to make something that was illegal a bit legal, by his own signature. The President came out in his May statement, and other statements, substantiating this conclusion.

Mr. BOB WILSON. Were you told there was a motive such as national security which you were doing rather than just political action?

Mr. McCORD. Well, in connection with violence-oriented demonstrators and what they might be doing. Certainly, yes.

Mr. ARENDS. You expressed a moment ago some concern about the great numbers of people involved in this thing and it bothered you a little bit, is that right? I'm not putting words in your mouth, I think you said you had concern about the great number of people in the action?

Mr. McCORD. It was my comment to reduce the number from a sizable number in the first operation to a reduced number in the second; obviously it was not quite as small as it perhaps should have been, I would say.

Mr. ARENDS. Add to that fact you knew it was illegal. The question that comes to my mind is why didn't you pick up your marbles and go home?

Mr. McCORD. In retrospect it would have been wise to do that.

Mr. ARENDS. You are supposed to be a smart enough guy to know what you are doing. I can't understand it. I would have run on an occasion like this, I knew it was illegal and there was a hoard of men around me some of whom you might be able to trust or couldn't trust. It is appalling to me.

Mr. McCORD. I can answer, sir, there are a lot of reasons. One of the reasons was I believed this was an operation the President of the United States wanted and had approved.

Mr. ARENDS. You don't know that, you just believe that?

Mr. McCORD. I just believe that. I knew it by virtue of the fact.

Mr. ARENDS. You believe more things than I do.

Mr. McCORD. All right, sir.

Mr. NEDZI. Please continue, Mr. McCord. You said you knew it by virtue of the fact.

Mr. McCORD. Simply there had been a series of meetings with the Attorney General, and with Mr. John Dean present. I knew the nature of the man, Mr. Mitchell, that didn't really make much time to agonize over decisions, he made up his mind one way or another. Yet this thing drug out over a period of a couple of months. I sincerely believe he referred the matter to the President and the President made up his mind to proceed with it.

Mr. HÉBERT. You mentioned Mr. Mitchell. You personally talked to Mr. Mitchell?

Mr. McCORD. Not about this operation. I talked with him on many matters, referring to the security of his family during the period of my employment.

Mr. HÉBERT. I'm interested only in what you are saying now.

Mr. McCORD. I did not; no, sir.

Mr. HÉBERT. So Mr. Mitchell is not a link?

Mr. McCORD. No, sir.

Mr. HÉBERT. Liddy and Hunt?

Mr. BOB WILSON. When you made the two entries at the Watergate were you dressed in some sort of a uniform such as a janitor or was there some cover from that standpoint?

Mr. McCORD. No, sir, just business dress.

The normal dress of the people who worked in the building at odd hours, for example, it would have been normal for people to come in and work on various floors in that way.

Mr. SLATINSHEK. Let's accept for the moment that you understood that Mr. Mitchell had the authority to in effect authorize wire taps and that you accepted this as the legal basis for this action. How could you rationalize the surreptitious entry? Mr. Mitchell has no authority under any law that I'm aware of that would permit him to give you a license to enter surreptitiously.

Mr. McCORD. My response is, I suppose, there is no legal way to do it except surreptitiously.

Mr. SLATINSHEK. My point is, I'm not trying to embarrass you, I'm trying to understand the rationale that you used to justify your participation in this exercise.

I concede for the moment that you could have understandably believed that Mr. Mitchell had legal authority, and could give you a license to plant a bug.

But, entering under these circumstances, I can't understand—and you are a man who has been involved in security for 25 years—I'm trying to ascertain how you rationalized this entry.

Mr. McCORD. You mean my motivations, and why I undertook to participate.

Mr. SLATINSHEK. You had to make a personal decision as to whether it was legal or illegal. This was present. Did you consider that illegal or did you consider it legal entering under these circumstances?

Mr. McCORD. Since the Attorney General had approved it as alleged, it was a legal operation. This is the way the FBI and other agencies undertake that.

Mr. SLATINSHEK. Mr. McCord, you are a lot brighter than that.

Mr. McCORD. I understand that.

Mr. SLATINSHEK. That is why I divided this into two things. The bugging incident, that is one operation. I consider you could have conceivably understood that to be legalized.

But I'm unaware of any rationale that would permit the Attorney General to permit anyone to enter under these circumstances, to enter a private headquarters, to break in.

Mr. FENSTERWALD. I wonder if I might comment on that.

I had the privilege of conducting about 3 years' investigation into Government electronics for the defendant some years ago, and up until

June 19, ironically, 1972, it was assumed to be legal to break and enter and put bugs and taps in national security cases. There is no way to put these things in except through surreptitious entry. As to whether the surreptitious entry is legal or not, depended upon the interpretation of the Supreme Court which action was handed down 2 days after the *Watergate* case. These were domestic security cases. The FBI, the plumbers, and others, under some color of law did break and enter and plant electronic devices. I know of no other way you could do it.

Mr. SLATINSHEK. I can point out a number of ways you can do it. Someone could walk into the office and plant—and be in that office very legitimately and then plant a bug in the phone. You haven't forceably or entered illegally into the premises. This is what we are talking about. We won't debate the legal issue. It only occurs to me if I had been in Mr. McCord's position, and I think most people would have felt that way, they certainly would have agonized over this particular question, since they were obviously trying to avoid detection. If they felt they had a legal justification for this action, they shouldn't have been too concerned with the possibility of apprehension.

Mr. NEDZI. Do you have something?

Mr. BOB WILSON. Mr. Chairman, the counsel has been introduced. I wonder if it might be appropriate to ask a question or two about a point that you have mentioned in your memo, and other areas about your firing of Mr. Alch and hiring of Mr. Fensterwald.

Mr. NEDZI. Mr. Wilson, if I may, I have some questions to ask preliminary into that. We will get into all of the memorandum very shortly.

Mr. McCord, did you say that there were two or three individuals from the agency with whom you spoke?

Mr. McCORD. I didn't mean to leave that impression, sir. My best recollection is that—I'm sorry, in connection with what?

Mr. NEDZI. In connection with setting up your employment and hiring people.

Mr. McCORD. No. No, sir, I did not mean to convey that. I talked with no one about setting up my organization, or hiring anyone, with the exception of calling an office that is almost an open employment office, so to speak, to try to locate a secretary. As I stated, she was—

Mr. NEDZI. Did you leave word there for any other references of any kind beyond that of just a secretary?

Mr. McCORD. It is possible, but I don't recall it.

Mr. NEDZI. Let me give you some names, and you give us the benefit of your recollection.

Mr. McCORD. All right, sir, I will be happy to.

Mr. NEDZI. James L. Baker.

Mr. McCORD. I don't recollect the name. It is possible this may have been someone in that particular office that I could have called to seek out a secretary if he were in that particular—I almost call it employment office of retirees, but I don't remember the name, sir.

Mr. NEDZI. Would it surprise you that Agency records disclose he was referred by the Agency to McCord Associates for possible employment there?

Mr. McCORD. I would say this, if the gentleman came to me for employment, I quite candidly don't recall him, by name. I can explain a little bit this way.

During the period of time that we were—I was seeking personnel for the Committee To Re-Elect the President I reviewed a large number of card candidates, that sort of thing. I don't recall the names of all of those people. I quite candidly don't recall the name of Mr. James Baker, if it were in that connection.

Mr. NEDZI. Did you ask anybody at the agency to refer people to you for employment in your capacity as an employee of the Committee To Re-Elect the President?

Mr. McCORD. I don't recall that I did, sir, no, sir. I can amplify it this way. I think it is entirely possible that after it became known that I employed Mrs. Shea, who is my secretary, a part-time secretary, I think they may have seen that as an opportunity to place other personnel with me, and may have referred people, and I just simply don't recall them at this point.

Mr. NEDZI. That may be what happened.

Walter E. Brady.

Mr. McCORD. Yes, sir, Mr. Brady came to me, I did not know through the Agency. I knew he had retired prior to the time I did. He worked for a day or two for me as the Committee To Re-Elect the President. He didn't want to work full-time. He worked almost as a guard there for the night shift, he was paid for his time and that was the end of it.

Mr. NEDZI. [Deleted.]

Mr. McCORD. Yes, sir. I recall a telephone call from [deleted]. He stated he was planning to retire, and would there be any openings that I knew of, on either the Committee To Re-Elect the President or with my own firm. I said I would be glad to talk to him about it. I never had an interview with him. He never came over.

Mr. NEDZI. Ross Ward Lambert.

Mr. McCORD. I don't recall that name, sir.

Mr. NEDZI. Harry T. Mahoney.

Mr. McCORD. Harry Mahoney I do recall. My best recollection, he had called me and said he was retiring from CIA, that he was seeking some part-time employment. I recalled interviewing him at the Committee to Re-Elect the President to see if he were interested in the almost card-type work we were doing there. He at that time showed no interest, and we did not employ him.

Mr. NEDZI. [Deleted.]

Mr. McCORD. [Deleted] there was a conversation, a telephone conversation with [deleted], in which the same thing occurred, but he indicated he was retiring and might be interested in some part-time employment. My best recollection was we set up a luncheon or so to talk, and we never did so. I never met with him in person, nor did I talk with him by phone afterward.

Mr. NEDZI. Dr. [deleted].

Mr. McCORD. Dr. [deleted] I knew and had known in the Agency. [Deleted] somewhere, in I think either late December, or early January of 1972, he and I had met at my office out in Rockville. We talked about setting up an organization, nonprofit organization to obtain guard personnel. I had actually done so. And Dr. [deleted] had given some lectures in connection with a group of guards that we trained, four or five.

Mr. NEDZI. John B. McGinn.

Mr. McCORD. John B. McGinn—John is either present or former CIA security officer who told me essentially the same thing as the others. He is planning to retire, and did I have any possibility for employment for him? Nothing developed out of it.

Mr. NEDZI. Mrs. Teresa Shea, you already testified about.

Mr. McCORD. She worked for me.

Mr. NEDZI. Mr. Jack A. Harris.

Mr. McCORD. I don't recall. I know Jack. He is a former security officer. I personally don't recall any telephone calls from him. I know there were no meetings with him. It is possible he may have called me but if so nothing ever developed.

Mr. HÉBERT. You keep stating security officer, you mean a guard, a private guard?

Mr. McCORD. No, sir, I mean a professional security officer with the CIA.

Mr. HÉBERT. Security officer is a guard.

Mr. McCORD. Someplaces they are used in the same terminology. Yes, sir, CIA and guard would be a uniform guard, a professional security officer would not be in a uniform, no, sir.

Mr. NEDZI. Conrad C. Dillow?

Mr. McCORD. Sir, I don't recall that name.

Mr. NEDZI. [Deleted.]

Mr. McCORD. [Deleted] was a retiree who had come, I think about early January 1972, and had given a lecture or two, to guards, that sort of thing. He was never employed, never paid for his services.

I haven't seen him I think I would guess since February 1972—approximately.

Mr. NEDZI. I'm a little troubled at this point, Mr. McCord, in view of the extensive list you didn't recall that there were that many individuals connected with the Agency with whom you had contact during this brief period.

Mr. McCORD. Sir, if I can correct that, I will be glad to try to do so. I believe it was phrased in a context, did I contact CIA regarding the hiring of these people. Did I seek out through CIA these people? Quite candidly, these names, no one at CIA ever contacted me. I suspect what happened was that the CIA retirement people simply were referred, they were given my name and in turn they contacted me. I think I never asked most of them how they happened to get my name. I certainly didn't mean to mislead you. Most of them contacted me of their own initiative it seems to me and I went ahead and talked with them. It was not a matter of my continuing liaison with CIA in employing the people. My only recollection is Mrs. Shea, there is no attempt to conceal anything from you. It is all open and above board. Even if I had done so, I would apologize, as this was the extent of my contact with the Agency in that regard. This office gave the people my name, they in turn called me from their home phone and that is the way it evolved.

Mr. NEDZI. To get to the postarrest period, and the preparation for trial, Mr. McCord.

When was the first time you recall that there was any effort to involve the CIA in covering up the Watergate operation?

Mr. McCORD. My first indication of it, my memory, was a conversation with Mrs. Hunt, as I recall in late July 1972, if I may refer to a memorandum—

Mr. NEDZI. Certainly.

Mr. McCORD [continuing]. That has been handed to me.

I talked with Mrs. Hunt and she had told me that her husband Howard Hunt in contacting Mr. Paul O'Brien of the Committee to Re-Elect the President, lawyer, had told him that the Committee to Re-Elect the President had advised him initially that the operation, Watergate operation was a CIA operation.

My recollection of what she had to say at the time was that Howard Hunt vigorously denied it to Mr. O'Brien, that the CIA had anything to do with it. And my statement to her at the time was that, essentially the same thing, I would very vigorously oppose any effort at any time by anyone to lay this off on CIA, because I knew it wasn't true.

It concerned me to the extent that I wrote this letter of July 29, 1972, through my attorney, in effect putting him on notice that this story was floating, that I knew it was not true. He himself knew the same thing from me.

Mr. NEDZI. You wrote this to Mr. Alch?

Mr. McCORD. Yes.

Mr. NEDZI. On what day?

Mr. McCORD. The note, the date that is on my memorandum is July 29, 1972. It would have been approximately that date.

Mr. NEDZI. Is that the same memorandum letter which you sent to—let me ask you first of all, did you send a copy of the memorandum to anyone?

Mr. McCORD. Yes, sir, I directed a copy of this memorandum to CIA, I believe the note which is on the second page reflects that, that I did send them a copy. I deleted the name of Mr. Alch from the memorandum itself.

Mr. NEDZI. Why did you do that?

Mr. McCORD. Quite frankly, so that in case the memorandum got mislaid in the mail, or got into the hands of anyone else, it would not be clear just to whom the memorandum had been sent to, or who I had sent it to. My last name was not on it. It was something of that type of protection.

Mr. NEDZI. To whom did you send that memorandum?

Mr. McCORD. I believe I sent it to the office of the Director of CIA. I don't recall specifically.

Mr. BOB WILSON. You did not sign it, is that correct?

Mr. McCORD. Yes, sir, I did sign it. I signed it "Jim."

Mr. NEDZI. Why did you sign it "Jim?"

Mr. McCORD. The envelope here reflects it was sent to Mr. Helms. My name had been in the paper constantly. I knew there would be no—I assumed there would be no misinterpretation, in view of the context of the material, the *Watergate* case referred to, there could be any misconception it was written by anybody but me.

Mr. NEDZI. How did you get a copy of the envelope?

Mr. McCORD. You gave it to me, sir.

Mr. HOGAN. This is ours.

Mr. NEDZI. This is this morning's?

Mr. HOGAN. Yes.

Mr. NEDZI. This was right after your conversation with Mrs. Hunt?

Mr. McCORD. Yes, sir.

Mr. NEDZI. What was the response which you received from your attorney to this letter?

Mr. McCORD. Nothing.

He never acknowledged it. I sent it to him as a matter of advice and information. He never raised the subject with me. I raised with him on subsequent occasions, several subsequent occasions, that essentially what I have said to you here, there were stories floating, and that the committee was claiming that CIA was behind the operation.

Mr. NEDZI. You say the committee was claiming that. What form did that claim take?

Mr. McCORD. I told him Mrs. Hunt had conveyed the information to me.

Mr. NEDZI. Was this on a continuing basis, or on more than one occasion she said this to you?

Mr. McCORD. My best recollection is that she said it to me on one or two occasions in July, roughly, or perhaps August, and I, in turn, when I saw Alch, thereafter, raised the issue in this form, it wasn't true in the first place, the CIA didn't have anything to do with the operation. I wouldn't stand for it, if they went to trial, whenever that would be, they depended on CIA, because that was not true.

Mr. NEDZI. When did you tell Alch that?

Mr. McCORD. I would say the first meeting after this letter, which would have been probably in early August or late August, whenever we next met.

Mr. NEDZI. Were there any other contacts with you, personal involvement with you, other than from the press that reference was made to the possibility of blaming CIA for this venture?

Mr. McCORD. There were continuous stories in the press.

Mr. NEDZI. I'm talking about your personal contacts—with anyone who made these kinds of suggestions.

Mr. McCORD. Well, there was, of course, in December 1972, when the statement I read into the record, in which Mr. Alch made the presentation to me as I described it.

Mr. NEDZI. This was December 1972?

Mr. McCORD. Yes, sir.

Mr. NEDZI. But, from the end of July until December, nobody had made any such suggestion to you?

Mr. McCORD. I will answer it in this way: No one other than Mrs. Hunt that I referred to. However, I saw continuous references in the press to the words CIA, or ex-CIA, in which it appeared to me the Bureau was leaking information from the White House, from the Committee to Re-Elect the President, wherever it was coming, was attempting to lay a foundation this may have been a CIA operation.

Mr. NEDZI. With whom were you in contact during this period of time, on the Committee to Re-Elect the President?

Mr. McCORD. No one.

Mr. NEDZI. So, the only information you had during that time-frame was from the press?

Mr. McCORD. Well, I had contacts with the other ones, so to speak, Hunt, Liddy, Mrs. Hunt. There were a series of motions heard in court, in which I was in contact, in addition with Barker and the Cuban personnel.

Mr. NEDZI. In your conversations with them, was this theory discussed?

Mr. McCORD. In discussions with Hunt. I would tell him, when I saw him, and with Barker, there appeared to be some effort in the press, spinning out of the Committee to Re-Elect the President or the administration to lay some groundwork that this was a CIA operation. I didn't agree. Or words to that effect.

Mr. NEDZI. What was Hunt's response?

Mr. McCORD. Say in August or September, Hunt's response was, when I saw him, yes; he told the committee lawyers he wouldn't either. This was not a CIA operation. He did not then, as I did not have anyone to blame it on.

Mr. NEDZI. How about Barker?

Mr. McCORD. I don't recall specifically Barker's comment. I think, given the context of it, I think, we were discussing in September, for example, what was coming up in the trial, and he was talking about essentially some of his own problems, and I would refer to this, and say, it seems to me, they are trying to lay a foundation that this is a CIA operation, and I didn't intend to stand for it.

There was no basis to it. I couldn't see how it possibly could apply. I don't remember any comments of his at that early date in this regard. He told me subsequently just before the trial, he and the other Cubans had been approached to use the defense it was a CIA operation and that they had been picked by Hunt to do so.

Mr. NEDZI. Then, when was the next time that you received words in this regard which prompted you to take some kind of action?

Mr. McCORD. It would have been to my recollection in December 1972, when Gerald Alch met me at the Monocle Restaurant, as I described in the statement, and began a series of essential approaches, endeavoring me to get to use this as my defense, the CIA was behind the operation.

Mr. NEDZI. Was it as blatant as that?

Mr. McCORD. Yes, sir, it was. I can describe it if you want. It is essentially as I stated.

Mr. NEDZI. Would you please describe it?

Mr. McCORD. It was in a very informal sort of meeting at the Monocle Restaurant in which he and my local attorney for Alch, Mr. Bernard Shankman were present. They were having dinner, late lunch, about 2 o'clock or 2:30 in the afternoon, after having come from a meeting with William O. Bittman, so they said, and from a court hearing that morning, in which Alch, in so many words, raised the possibility of, why don't I use the defense this was a CIA operation?

And I pretty much was stunned or jolted, but he would raise this as a possibility, and from that point forward, I was trying to find out what essentially was going on. I said what do you mean? And he said, in effect, that, well, couldn't you have been recalled from CIA, couldn't the records be doctored to show you had been recalled by CIA to undertake this operation? He also said, isn't it true that CIA retirees can be recalled? I said it is true that CIA retirees can be recalled, then he

proceeded to say, well, in connection with the overall story that this was a CIA operation, he made the blunt statement, Schlesinger could be subpoenaed, he could go along with it. I don't think he suggested Mr. Schlesinger was going to doctor the information. I think what he was intending to convey was Schlesinger would go along that this was a CIA operation. I have no idea Mr. Schlesinger would or wouldn't. This is simply Mr. Alch's statement to me. He began other questioning in other regards, to suggest, well, now, we can call Mr. Victor Marchetti, who formerly worked for CIA, get him on the witness stand, to lay a foundation that CIA employees when they are caught in illegal operations deny that there is a CIA sponsorship of such operations.

This meeting continued, the first meeting, for about an hour, as best I recall. And I asked Mr. Alch, trying to feel him out on just how strong this idea was, if it was his advice as my attorney, that I use this as my defense, and he said, yes, it was.

Mr. SLATINSHEK. Did he say who inspired that recommendation?

Mr. McCORD. He did not say who inspired it. I got the very distinct impression, because he referred two or three times during the meeting to having just come, quote, just come from a meeting with Bittman, the idea either came through Bittman, from Bittman, in a meeting with Bittman, or Bittman had something to do with it in some form. Just what, I don't know.

Mr. SLATINSHEK. This is an inference that you drew?

Mr. McCORD. Conclusion.

Mr. SLATINSHEK. But he did not say that?

Mr. McCORD. He did not say that. It was a very strong impression which I received.

Mr. NEDZI. Was there any reference to the other defendants with respect to orchestrating this defense?

Mr. McCORD. No, sir. I did not know at that meeting, of the second meeting with Mr. Alch in which he repeated this same pitch to me through about a 4-hour meeting that anyone else was being approached to use this defense. I did not learn that fact until a week or so later, just before our first day of the trial when Barker told me that he too, and the other defendants, had been approached to pitch the Miami, Fla., by Hunt and other unnamed persons to use the same defense.

At that point in time it was clear to me there was a coordinated effort for all of us to use that as our defense. Who was behind it was not quite clear at that point in time.

Mr. NEDZI. Following this meeting, with Mr. Alch, what did you do?

Mr. McCORD. Well, at the end of the meeting—

Mr. NEDZI. Let me ask you first what you told him in response to all of this. What was the conclusion at the end of the meeting?

Mr. McCORD. My response at that point in time, my reaction at that point in time which I think you have to know, I was beginning to wonder essentially what was going on with my own attorney. What is up? Who is behind it? What is the whole operation all about?

But I essentially heard him out. I would make some comments. He would ask, can't you be recalled by CIA? Isn't it true CIA employees could be recalled? I said, yes, it is true. And he would say—he made

the statement he will call Mr. Victor Marchetti and get him to testify and lay this foundation. I said, well, what do you want to use him for? My comments were, he is somewhat discredited in the press, what do you want to use him for. I wanted to try to find out how firm that was. I said there were other people more objective than he would be. He said, no, I'm not interested in anybody else. I'm interested in Mr. Marchetti. This sort of strengthened my concern he and others were out to sandbag the agency and make them a victim of this type of ploy, this type of defense.

I don't really recall my response to all of this, except primarily to sit and listen and try to find out what was going on. I'm sure I made comments but what they were I don't know.

Mr. SLATINSHEK. Mr. McCord, I'm puzzled at this point why, and I presume you did—why you didn't press the fact that it was your impression that Mr. Mitchell had approved this operation and it was therefore in a sense legal and this is your defense? That all the defendants were going to be making this same claim. This is the view you held. Did you discuss that with the attorney? And why he turned down that defense?

Mr. McCord. First of all there was a long gap from about November 7 to this particular meeting on December 21, in which I had practically no communications from the lawyer, not even a party telephone call. Here the trial was just a week away, and I was getting more and more concerned about essentially what is going on? What is happening with my own lawyer? What is the situation? Because he had not debriefed me about the whole—

Mr. SLATINSHEK. May I interject at this point? How had he become your lawyer?

Mr. McCord. Shortly after I got out of jail in July, or late June, I had seen the other attorneys, I since learned were attorneys hired or paid or what have you through Hunt or the committee, that they were spread too thin. If I was going to be properly defended I would have to employ my own lawyer. I asked about various lawyers. One firm referred to me was F. Lee Bailey's firm. I finally decided I would contact Bailey's firm to see if Bailey himself was available. And the time I called he wasn't there, but Alch answered the phone. He talked with me for a period of time. He said, won't you come up and we will take it over. I did so a day or two later. This is how it came about.

Back to answer your other question, in the first meeting with him, I went over, in this first meeting with Alch, I went over to it that this was essentially a Mitchell operation as I understood it, and White House personnel were involved as I understood it. John Dean, and so on. From that point forward there appeared to be no clear, start-to-finish debriefing with me up to December 21 of my role and the role of others and so on, as I assumed a good attorney would do in preparing for his defense. This was the first meeting since that time, essentially was pretty well stunned that this would be used as a defense when I had already written several letters saying I wouldn't stand for it. I had to do essentially my own intelligence operation to find out what was going on, and if I was essentially going to protect my own interest and some of the other defendants, and at the end of it he said won't you come up on December 26 and we will talk about your defense for the trial. I said, fine, that is good, I will finally get around to an oppor-

tunity, you couldn't do it in a restaurant with large numbers of people sitting there, talking out the pros and cons of the different defenses to be set up.

Mr. SLATINSHEK. In the conversation you didn't even consider apparently the very, what I consider the very honest judgment you made, that this was a legitimate exercise.

Mr. McCORD. None whatever. I got the distinct impression he now had the party line coming from the White House on how this whole thing was to go, and this was the way it was going to go if he could "sell" it to me.

Mr. NEDZI. How could he have gotten it?

Mr. McCORD. Through William Bittman, who I felt was really the focal point for the White House in terms of coordination and control over the attorneys and if possible the defendants.

Mr. NEDZI. Who was Bittman?

Mr. McCORD. Bittman was the lawyer for Hunt.

Mr. NEDZI. Was he part of the Committee To Re-Elect the President's operations?

Mr. McCORD. I don't know the role that he played in this whole matter. I think that will subsequently come out in Dean's testimony. But it appeared to me he was trying to coordinate and control the defense, defense attorneys, defense strategy, and ultimately I think the fate of the defendants, which was essentially to put them behind bars and keep them silent.

That is my conclusion.

Mr. NEDZI. What leads you to that conclusion?

Mr. McCORD. All the factors that transpired between July and that date, and today's date, in the meetings in which strategy planning were held in his office in which my attorney Alch made that his office for dictating memorandums while he was here on trial as opposed to the office of Mr. Shankman who I assumed he would have normally been the office for my defense counsel to use. Shankman was my local representative. It seemed to me like it was a fully coordinated and agreed to effort to insure Bittman obtaining access to everything I said, thought, and did.

Mr. SLATINSHEK. How many meetings did you have with your attorneys Shankman and Alch prior to the time you severed your connection with them?

Mr. McCORD. Well, of course, daily meetings during the trial. Meetings prior to that time you mean?

Mr. SLATINSHEK. I have reference to the time you originally retained them and the time you had this meeting at the Monocle Restaurant where you were somewhat shocked by their attack or approach.

Mr. McCORD. Sure. I would guess it would be during September, which was the month of the indictment. There were several meetings. I would guess four or five meetings. In October, I would say two or three. In November to December, none. I may have called them on the phone. I don't recall.

Mr. SLATINSHEK. In all these meetings, roughly six, seven, or eight?

Mr. McCORD. Perhaps that many.

Mr. SLATINSHEK. Had they discussed coordinating with the other defendants a common defense?

Mr. McCORD. Yes. Alch told me in August or so that he was essentially initiating the contact with Bittman in order that there be coordination of strategy. At that time, I didn't see anything wrong with this, since if it was a normal, legitimate coordination. It came to appear to me it was far more than that, Bittman was to control the strategy not to coordinate it.

Mr. NEDZI. Following this meeting what did you do, Mr. McCord?

Mr. McCORD. As he had asked I went to Boston on December 26, which was the day after Christmas.

Mr. NEDZI. Did you write a letter to anybody after this meeting?

Mr. McCORD. I was very concerned during this next week, from that period, on. OK, the White House, the committee, or both, are now signaling what they plan to do. And that plan appeared to be lay the operation off on CIA. Not knowing what would be coming up, what the future would bring, I felt—

Mr. NEDZI. You say White House, what makes you say that?

Mr. McCORD. Well, John Dean, according to Liddy, was in on the planning of the operation itself.

Mr. NEDZI. Liddy and Dean were not involved in your conversations with Mr. Alch?

Mr. McCORD. No; but by virtue of the participation of Dean in the initial planning operations, and in everything that I had seen in the press, since that time, I was fully convinced the White House was in this thing neck deep.

Mr. NEDZI. Press notices had a substantial impact apparently on your conclusion?

Mr. McCORD. On the conclusion; yes.

I can read the press and get a pretty good idea where the material is coming from. Some seemed to be coming from the White House, yes, sir.

Mr. SLATINSHEK. You testified that Liddy and Hunt had both told you that Mitchell and Dean had certainly been—it was your impression at least—had certainly been involved in approving the Watergate exercise?

Mr. McCORD. That is right.

Mr. SLATINSHEK. You speak of them as the White House, in a large sense representing the White House. I gather up to that point in time you were 100 percent behind the operation, and you were sympathetic to the objectives.

When did this quote "disenchantment" with the White House occur? You obviously had some feeling, shall I say, of isolation, or a lack of sympathy from the White House staff. When did this occur, and what prompted that? Did you make efforts to make contact of one kind or another, and have them rejected?

Give us some idea.

Mr. McCORD. I would say the turning point, I had a very strong loyalty to the administration, along through July and August, and so on. It seemed, for example, in July that they seemed to be doing what they could to help the defendants, and there was a contact there through Hunt and so on. This seemed to me quite proper, and they

seemed to be looking out for the defendants. It occurred, however, in September, somewhere in September, certainly by October, that this whole thing was changing. The objectives then of the White House did not seem to be quite candidly what was in the best interest of the defendants, but what was politically expedient and to the best interest of the White House and the Committee To Re-Elect the President. There was a 180-degree turn, I thought there was, at the time of the indictments, this sort of seemed to be the cutoff point, OK, the whole objective now is to cover up everything else that has transpired.

Mr. SLATINSHEK. Could you give us something a little better, a little better handle on it, individual events or actions?

Mr. McCORD. Certainly. I can give you concrete events. That would have been an early meeting of October 1972, when Alch, Gerald Alch, my attorney, met me at the Colonial Restaurant, 1820 M Street, I believe, Washington, and about that time, presumably to discuss my defense, and his opening comments were, I spent the morning with Bittman, quote, "nobody is to get up on that stand."

So this is a very interesting opening comment to begin a conversation with your own lawyer about.

And then he follows that with the statement, the men are going to be offered protective clemency and protection of the families. You are going to be offered executive clemency. And support for your family while in jail. And rehabilitation when you get out. All accompanied by the first statement nobody gets up on the stand when the trial comes up. This, I would say, was a specific overt concrete act which convinced me then my impressions for the preceding month were exactly right, that the whole effort was a coverup effort, they were going to try to keep the defendants silent and send them off to jail in order to protect the higher ups, which I knew Mitchell, Liddy, Dean and whoever else might be involved.

Mr. NEDZI. When did you come to that conclusion?

Mr. McCORD. I listened and heard him out at that time. There was a further conversation, why don't you take the legal fee money from Mr. Hunt. I told him earlier it appeared to me that they were trying to use this money for control, to control the defendants, to keep them quiet, say 2 or 3 weeks earlier, at the time of our indictment, around September 19. I said I want to talk to you about the propriety. It looks to me like they are trying to use the money to keep us quiet before the election. He said you are a damned fool for not taking it, go ahead and take it. We talked that whole topic out for a period of time. He had some monetary interest in my receiving it because there was still money due and owing to him.

Mr. NEDZI. How much did you pay him?

Mr. McCORD. About \$30,000.

Mr. NEDZI. Was that an agreed-upon fee?

Mr. McCORD. Agreed-upon fee in writing was \$25,000, period. Then an additional cost for appeal, money for appeal.

Mr. SLATINSHEK. How did you pay that?

Mr. McCORD. Mostly in \$100 bills.

Mr. SLATINSHEK. I mean where did you get the money?

Mr. McCORD. Some of the money was left over from the committee operation, some \$18,000, some was additionally received by me in con-

nection with what I have been discussing here, money through Mrs. Hunt that I testified to before the grand jury on the Watergate.

Mr. SLATINSHEK. You said you gave him \$30,000. None of these funds were your personal funds?

Mr. McCORD. This came through the committee.

Mr. SLATINSHEK. Through the committee?

Mr. McCORD. Yes.

Mr. SLATINSHEK. Who was the agent and how was this effected, this transfer fund?

Mr. McCORD. Mrs. Hunt was always the courier. I understood she got it from a contact.

Mr. SLATINSHEK. How did you tell her how much you needed?

Mr. McCORD. She stated there would be a continuation of salary for the men for example in July. I asked her what—she said what do you want, what are the salaries? What are the others receiving; referring to the committee and Hunt. She said \$3,000. I said, all right, that is fair enough.

Mr. SLATINSHEK. This is a continuation of your salary, \$3,000 a month?

Mr. McCORD. Yes.

She was the courier. She stated the money came from Parkinson at the committee, or came through Parkinson, the Committee to Re-Elect the President, one of the lawyers there. I understood this was the channel, or I did not understand that he was the one who personally delivered the money, but that somehow the arrangements were set up through Parkinson, and he arranged to see that the money got either to Hunt or to Mrs. Hunt. She told me on one occasion that the accounting for the money went back to Bittman personally. That she delivered some form of an accounting to him for all the money she delivered to the other defendants, which as I understood it, included Liddy. I don't know whether she delivered the money to the Cubans or not.

Mr. SLATINSHEK. This was delivered to you in cash?

Mr. McCORD. In cash.

Mr. SLATINSHEK. Did you sign a receipt for it?

Mr. McCORD. I asked if she wanted a receipt. She said no. She stated I'm giving an accounting for this money.

Mr. SLATINSHEK. She gave you for the purpose of the record a lump sum of how many dollars?

Mr. McCORD. There were two lump sums for salary continuation, unquote, which was \$5,000 for the first payment, I think in July.

Mr. SLATINSHEK. \$15,000?

Mr. McCORD. \$15,000, plus another \$6,000 for December and January, which was made to me in December. And then the total for additional attorney's fees of \$25,000 which was made over a period of two payments, the final increment in December, December 2. That was the last meeting with her 4 or 5 days before her death.

Mr. SLATINSHEK. Let me recapitulate, you got \$15,000 in salary advances?

Mr. McCORD. \$21,000.

Mr. SLATINSHEK. Another increment of \$6,000. Then you got another \$25,000?

Mr. McCORD. Right.

Mr. SLATINSHEK. You got a total of \$46,000?

Mr. McCORD. That is right.

Mr. SLATINSHEK. These are all funnelled to you through Mrs. Hunt, and she, as you understand it, received it from a Mr. Parkinson?

Mr. McCORD. She didn't say she received it from him. She said it was arranged through him. I got the impression she got it from a courier she did not know. I couldn't be sure. Bittman was somehow involved in the coordination of it with Parkinson, because the accounting went back to him. And I assume the two men got together in some way.

I understand from what has been the sworn testimony that Mr. Ulasiwitz was the courier to her. This is what I understood him to say during his sworn testimony before the committee.

Mr. NEDZI. When did payment to you cease?

Mr. McCORD. December 2 was the last payment.

Mr. NEDZI. You never received money since then?

Mr. McCORD. No.

Mr. NEDZI. Mr. McCord, to get back to your action, following the meeting with Alch. You say you prepared a letter at that time?

Mr. McCORD. I think I prepared a series of letters which were sent to CIA in order to tip them, to alert them, that an effort was being made to lay this operation off on CIA.

Mr. NEDZI. You have copies of a series of letters which the Agency received?

Mr. McCORD. Yes.

Mr. NEDZI. Are all of these prepared, were all of these prepared by you?

Mr. McCORD. I'm sure they were. Just a moment.

Yes, sir.

Mr. NEDZI. Why did you send the first letter to Mr. Helms and the second letter to Mr. Gaynor?

Mr. McCORD. It is hard to recall my rationale quite candidly, except I believe as of December 21, or so, Mr. Helms was no longer—I think it was publicized Mr. Schlesinger was to be the Director of CIA. I didn't know whether, as of that point, Mr. Schlesinger was in effect sitting in Mr. Helms' desk there, and if so, if I sent such a letter to Mr. Helms that it might in effect reach Mr. Schlesinger, and his name hadn't been mentioned to me in the context of Mr. Alch's comments to me. I felt quite frankly I ought to send this to someone I knew, then I would be sure it would get into the Agency hands and wouldn't be torn up and destroyed by others.

Mr. NEDZI. Your letter dated December 22, you use the phrase "don't worry about me no matter what you hear." What did you mean by that?

Mr. McCORD. Well, sir, I meant essentially this: That I really didn't know what kind of intelligence game I was going to have to play with Mr. Alch or with others later during the trial. I can cite the example of Jack Caulfield contacting me through Alch again in January trying to make an executive clemency approach to me. I knew that I was working in this sort of a situation. Quite frankly it seemed to me I was completely encircled, my own defense attorneys, the White House, the Department of Justice and everyone else, it seemed to me was out to put us away without a fair trial. I didn't know what role I was going to

have to play to find out certain things I had to know in order to protect my own best interests in this thing.

I just simply didn't want CIA to every worry about me, No. 1. I was using this defense it was going to be a CIA operation. That was my No. 1 concern. They had no worries whatever. I was not going to use that as a false defense. I didn't know about the others, I didn't know if they were going to be fixed, subsequently they were fixed. But they had no worry from me, nor did they have any worry in January. I didn't want to work in a vacuum. I wanted to know what was going on and who was doing what to whom. You sort of walk in a lion's den, you listen and talk a little bit, and know what you say may be misconstrued. I wanted the CIA not to worry about it. I had two things in mind. No. 1, don't worry about it, and No. 2, I wasn't going to use this as my defense, let anyone else use it. I was out to get a fair trial. It seems to me like I was the only one quite candidly that had not "laid down" for the sending off of the men to jail, subsequently found out perjury and so on. This was a risky business. I had to tell them don't be worried about me. That was the reason.

Mr. NEDZI. In the course of this operation, or before it, didn't you develop any personal friends with whom you might consult and confide in with respect to it?

Mr. McCORD. With respect to what, sir?

Mr. NEDZI. To the things which were occurring to you. You described yourself as being isolated, all alone, everybody closing in on you, and really nobody you could turn to. Who was the gentleman who contacted you from the White House, Secret Service? Was he somebody who you might turn to perhaps?

Mr. McCORD. Perhaps in retrospect I could have done so. I didn't want to involve him in the Watergate operation in that way. If it occurred to me I didn't want to involve him. I knew he was innocent. He had no role in it before. I felt I could fight the battle.

Mr. NEDZI. To whom did you turn? Didn't you talk to anybody about what was happening?

Mr. McCORD. To me?

Mr. NEDZI. Yes!

Mr. McCORD. Oh, yes, I talked to my wife, we have spiritual resources through our church. And I felt quite candidly the Almighty had a hand in this thing. The thing would work out ultimately so justice would be done. I think justice is being done. I knew that if I had to get rid of Mr. Alch I would do so and get another attorney. I subsequently got a good attorney. It took me awhile to do it, through Mr. Fensterwald. I think I have gotten the greatest attorney in the country.

Mr. BOB WILSON. Is that on the record, Mr. Chairman?

Mr. McCORD. So, I don't know whether I have answered your question. I have tried, sir.

Mr. NEDZI. You say here the fix is on one of the police officers in the MPC Intelligence Department.

What was the basis of that statement?

Mr. McCORD. The basis of it was the statement to Mr. Alch, or that he made, Mr. Bittenbender, according to the statement that Mr. Alch alleged that he had, copy of the statement of Bittenbender, said I had claimed on the day of our arrest this was a CIA operation. I knew that I had not claimed that. My conclusion at that point in time was that

the man must be fixed police officer if he would make such a statement. Since I have that in my own statement I read to you initially in the beginning, maybe the man had an honest misunderstanding and impression the first day of our arrest because at the time we were arraigned the CIA background of a number of the men came out. I tried to do both things. I tried to say subsequently perhaps he just misunderstood what he heard. He drew some conclusions which were not warranted. I would like to think that is what happened, and I believe that is what happened. But I think Mr. Alch was using me by saying this, I never saw the memorandum itself, I saw it laying there on his table but I never read it. He said this is what the memorandum says. I took his word for it. I think Mr. Alch perhaps was twisting what was in that, saying, look, it is hopeless for you to deny this defense, because we are going to use Bittenbender as a Government witness and say this is what you said.

Mr. NEDZI. Well, now, following that meeting with Mr. Alch, what was the next occasion under which this whole question was discussed?

Mr. McCORD. Well, I raised it, I went home and thought about it, what to do, and I figured I had best get rid of this attorney. So I went and talked with Bernard Shankman, the local attorney and expressed my concerns to him, the whole package, and he said why don't you give Gerry a chance to explain what he has in mind. There was a meeting on January 2, and I proposed, and I was pretty mad at that time, and I said I was thinking about reading a statement to the press, laying it out what he has asked me to do. He was pretty shook. He said why don't you give Alch a chance to explain what he meant. I said, all right. He called him and set up a meeting for the following day whatever it was, Monday or Tuesday, and I went down to his office at 9 o'clock in the morning and he reported back, Alch never showed up. He said he went to the airport to meet him and there was no Alch there. So I just simply took a letter I prepared as part of the contingency to Judge Sirica's chambers saying I was firing Alch. That was the next occasion in which it was discussed.

Mr. NEDZI. Did you also prepare any letter to the agency?

Mr. McCORD. I'm sure I did. I see that I did. These copies look legitimate. During the week after the first pitch and the week after, 2 or 3 days after that session with Shankman, I sent copies of some memorandum to CIA simply to let them know what had happened.

Mr. NEDZI. Had you seen copies of these memorandums before?

Mr. McCORD. Yes, sir, these are the ones I prepared.

Mr. NEDZI. Have you seen—are these copies, since the time you sent them?

Mr. McCORD. No.

Mr. NEDZI. The Watergate Committee, has never asked you about these?

Mr. McCORD. They may have had questions stemming from this, but I didn't see any memorandum or they didn't describe them to me.

Mr. NEDZI. They never asked you whether you were the author of the memoranda or not?

Mr. McCORD. No, sir.

Mr. NEDZI. Did the grand jury?

Mr. McCORD. No, sir.

Mr. NEDZI. Did you appear before Mr. McClellan?

Mr. McCORD. No, sir.

Mr. BOB WILSON. May I ask a question?

Mr. NEDZI. Yes.

Mr. BOB WILSON. On this statement, Mr. McCord, the July 29 memorandum, a copy of the letter to Mr. Alch. You removed Mr. Alch's name on the copy before you sent it to Mr. Helms?

Mr. McCORD. Yes, sir.

Mr. BOB WILSON. You say you have a few interesting bits of information. You mention about the prosecution under Silbert. And you mentioned the CIA story.

Now, is this as a result of your conversation with Mrs. Hunt? You said you had met Mrs. Hunt about the 29th, and she told you Mr. Hunt was mad because he didn't learn——

Mr. McCORD. Yes, sir, what I referred to in here, as it pertains to CIA which is paragraph No. 3, and paragraph No. 1. I had obtained that from Mrs. Hunt, and subsequently after this date, this information was simply confirmed to me by Hunt himself.

Mr. BOB WILSON. You say it is information. You don't say it is alleged information. And yet it came from Mrs. Hunt who said she was quoting from Hunt, who was quoting somebody else, down the line. It isn't only secondhand, it is third- or fourth-hand, and yet you say information, obviously which you believed, and it may turn out to be right, I don't know.

But let me ask you a few questions about Mr. Alch.

Mr. McCORD. Sir, could I comment on that?

Mr. BOB WILSON. Yes.

Mr. McCORD. Simply these statements in paragraph 1, 2, and 3, in my letter, Hunt directly himself confirmed to me the same statement in subsequent conversations, and I believe some of the information that appears in the sworn testimony substantiates at least a part of this.

Mr. BOB WILSON. OK.

How did you happen to first hire Mr. Alch?

Mr. McCORD. I believe while you were out we went through that, in that the latter part of June, I realized the two attorneys we had were spread too thin among five defendants for proper representation I was going to have to find a lawyer of my own. I inquired about other lawyers that work in the criminal field, Lee Bailey's name was given to me. I called to see if Lee Bailey was in. He wasn't in but Alch answered the phone, and suggested I come up to talk to him, which I did a day or two later, and I engaged him as counsel.

Mr. BOB WILSON. OK.

Was it the 29th of December that you formally told him that he was not going to be your attorney any longer? What date was that?

Mr. McCORD. The first termination of Mr. Alch was I believe on January 2, when I delivered the letter to Judge Sirica, terminating the services. Things were patched up the next day and subsequently in March or April—June of this year that really he was subsequently terminated.

Mr. BOB WILSON. OK. When did you first contact Mr. Fensterwald?

Mr. McCORD. Oh, I would say my first personal contact was—the first day we met was the day I got out of jail. I believe it was March 7, 1973.

Mr. BOB WILSON. Did you make arrangements to be represented by him before you got out of jail?

Mr. McCORD. Oh, no, none whatever. There were no such arrangements made until March 23, when subsequent to the reading of my letter that I sent to Judge Sirica, by Judge Sirica in his court, in which he encouraged all defendants to go before the Watergate Committee. I realized I was going to need counsel. I had heard that Mr. Fensterwald had been chief counsel of the Senate Judiciary Committee before. It seemed to me we needed an attorney familiar with that committee. I went to him personally and asked if he would serve as my counsel for that committee.

Mr. BOB WILSON. You have modest means obviously. Who is paying for Mr. Fensterwald?

Mr. McCORD. We have agreed on a fee, which has been deferred—not deferred, but when I'm able to pay, it will be paid. It will be paid out of my own.

Mr. BOB WILSON. Have there been some statements made as to the fee Mr. Fensterwald is charging? Is there anything in the press to that effect?

Mr. McCORD. I don't recall. I have no objection stating. It is a \$10,000 fee at the present time. I think that is rather reasonable considering the massive amount of hours we both have spent.

Mr. BOB WILSON. I can't argue with you there. This is a bit provincial. I notice you were one time stationed in San Diego with the FBI, which I'm sure was one of your happier times.

Mr. McCORD. Very much.

Mr. BOB WILSON. During your duties in working for the Committee to Re-Elect the President, were you ever sent to San Diego to look into security problems there in connection with the convention?

Mr. McCORD. I knew I would go there, but the switch to Miami came before the trip was necessary. So the answer is no.

Mr. BOB WILSON. Were you working with the local Office of Civil Defense here in Washington in connection with the demonstrations and problems and did you contact Mr. George Roderick who is head of the local command center here in the District of Columbia that more or less is the center for control of the demonstrations?

Mr. McCORD. Sir, I know the name, and I know the position that he holds. I don't recall a contact with him. It is possible that there may have been some during the May, latter part of May 1972 demonstrations, because there was considerable concern about violence at that point in Washington. My recollection, if I have the name correct, he was sort of a focal point for command center operations or something. I never met with him personally. I may have called his offices. I don't know whether I made a phone call.

Mr. BOB WILSON. Thank you.

Mr. McCORD. Yes, sir.

Mr. NEDZI. About this letter which you had sent to Mr. Gaynor. First, let me ask you, were you aware that the first letter you sent to Mr. Gaynor you addressed it to the son?

Mr. McCORD. No, sir.

Mr. NEDZI. Was there a reason for this, or did you address it accidentally?

Mr. McCORD. I think they both have the same name. I might have looked it up in the phone book and sent it to the wrong Gaynor.

Mr. NEDZI. Mr. Gaynor is a pretty good intelligence officer?

Mr. McCORD. He is a good intelligence officer; I will say that.

Mr. NEDZI. Let's get back to the chronology of it now, Mr. McCORD. You had this conversation with Mr. Alch, left in suspension, followed by a letter to Mr. Gaynor. Then you had another meeting with Mr. Alch?

Mr. McCORD. Yes, sir.

Mr. NEDZI. What transpired at that meeting? And when was it?

Mr. McCORD. It was December 26, the day after Christmas when I flew to Boston at his request. He arranged as I said before, on December 21, please come up on Tuesday, and we will do some planning for your defense for the case. So I got there about 10:30 in the morning. I remained there until midafternoon. And, then I flew back, and throughout that period from 10:30 until 2:30 or 3, or 3:30, whatever it was, the pitch was repeated continuously, to use as my defense, that this was a CIA operation. He began by showing me, pointing to his desk and saying this is the letter we got, this is a copy of the statement of Bittenbender, the police officer, and Bittenbender allegedly said what I previously described. And then his comments to me throughout the whole thing is why won't you use—throughout the day, why won't you use as your defense this is a CIA operation. I repeated to him what I said to you already.

Mr. NEDZI. Was there any discussion of the fact that such a defense would necessitate perjury?

Mr. McCORD. Oh, yes. I told him, I said, it is going to be perjury. As I said Bittenbender perjured himself, if this is what he is going to say. I think he was hinging part of what he was doing on the assumption CIA would refuse to appear and therefore the case would be dropped and so on, whatever other reasons he had, from whatever sources he got this idea from. That was part of it.

Mr. NEDZI. Well, presumably you were going to testify in this kind of a situation, weren't you?

Mr. McCORD. He didn't make it quite clear. Let's put it this way. It waivered back and forth as to whether I would get up on the stand or not. But obviously if I got up on the stand as I told him this would be perjured testimony on my part. Then he came back and said maybe it won't be necessary to put you on the stand. In other words, he could lay the foundation by introducing people like Marchetti to lay a foundation for this thing, by subpoenaing CIA officials who would refuse to appear, and other types of collateral testimony, that he might be able to get to help support the defense. He would use this as his introductory argument and conclusory argument it was a CIA operation.

Mr. NEDZI. Did you question his ethics at all?

Mr. McCORD. Certainly.

Mr. NEDZI. To him, in his presence?

Mr. McCORD. Well. I put it this way: I began by stating, look, I can't first of all use this defense, in the first place it is not true. In the second place, I will not see the agency I worked for for 19 years, treated by me this way, be damaged almost irreparably, for the next 10 or 15 years, by this type of action on my part. I won't be a party

to it. I don't want to have anything to do with it. I said, if I have to go to the press wherever I have to go to stop it, it will be stopped.

Mr. NEDZI. What was his response to that?

Mr. McCORD. His response would be to switch the topic, he would say OK. Then we would go on and talk about something else. It might be where he was going to stay when he was here, and what the contact arrangements would be between the two of us during the trial, various and sundry things, not of too much importance.

Subsequently when he thought he cooled me down a bit, he would come back to it: He would say, are you sure you would not use it? Then I would go through like a broken record why I wouldn't do it. This went on for awhile, we then broke for lunch.

We came back to it a time or two during lunch. After lunch we would go through it again.

I would get mad and he would change the subject to something else.

Mr. NEDZI. There was no conclusion arrived at this meeting?

Mr. McCORD. The conclusion was I wasn't going to go along with it was very apparent. What he was going to do was not so apparent.

Mr. NEDZI. What happened subsequent to that?

Mr. McCORD. I went to Shankman later, as I told you, a couple or 3 or 4 days later as I thought the whole thing through, and told him I was going to terminate Alch's service. He said, give him a second chance. We did that on Monday. We went out to meet the plane, and Alch didn't appear, without any explanation as far as I am concerned.

I went to Judge Sirica's office and said he was fired.

Mr. NEDZI. You then had a hearing before Judge Sirica?

Mr. McCORD. Yes, sir, the following day. He called all the defense attorneys today. Alch had been on the phone several times after I delivered the letter, apologizing, saying do you want to meet with me. He met with Shankman the next morning, and assured me nothing like this would happen again.

He said, "he is doing it only to my best interest, without any amplification." I said OK, I will give you a second chance.

Mr. NEDZI. Did you have a meeting before the Judge with the attorneys?

Mr. McCORD. No, sir, the meeting was very short. In effect, he said, I understand you fellows have had some differences. Have you settled your differences, or words to that effect. We said yes, sir, we have. A few other words were said and that was about it.

Mr. NEDZI. What was in the letter to Judge Sirica?

Mr. McCORD. I told him I only terminated Alch as my attorney. I was asking whatever files he had would be delivered to whatever attorney I subsequently engaged.

Mr. NEDZI. There was no reference or reasons for this?

Mr. McCORD. No, sir, the letter was very short.

Mr. BOB WILSON. During the period, then, from then until you got out of jail, you were in effect without an attorney?

Mr. McCORD. No. As I say, we engaged Alch, I agreed Alch would continue.

Mr. NEDZI. They settled their differences.

Mr. BOB WILSON. You really didn't fire Alch on the 3d?

Mr. McCORD. I fired him and rehired him, I suppose is the most accurate way to say it.

Mr. BOB WILSON. When did you ultimately fire him?

Mr. McCORD. He was terminated this month.

Mr. BOB WILSON. You were represented by Mr. Fensterwald and Mr. Alch at the same time?

Mr. McCORD. Mr. Fensterwald was a cocounsel at my request with Mr. Alch a few days, and Rothblatt in connection with my criminal case, civil suit in connection with my appearance before the legislative committee and primarily, and also because Mr. Alch simply after March 23 was tied up for 1 month or 2 months in a murder case in Chicago and couldn't be here physically. I have to have cocounsel.

Mr. NEDZI. Mr. McCord, following this meeting at Judge Sirica's office when did you again have any word about the possibility of CIA being used as a cover for the Watergate?

Mr. McCORD. After January 2. I believe it was a few days later. The day of the opening of the trial which I believe was January 8, or maybe a day or two earlier when I talked with Barker, Bernard Barker. He told me that Hunt was very mad at me for not going along with this pitch. very bitter.

It was being used as a defense for all the other defendants who were willing to go along with it.

Mr. NEDZI. Did you talk to Hunt yourself?

Mr. McCORD. No; I did not. I went up to him a couple of times and he was white with anger, obviously, over this. I didn't bother to try to engage him in a conversation. We had no substantive conversation during the trial. and I think this was the reason for it.

Mr. BRAY. Were you well acquainted with Hunt before this?

Mr. McCORD. No, sir. I have known none of the Cubans, and had never met Hunt, to my recollection, except once in Europe, once or twice in Europe when I had simply shaken hands with him. I was not in the Bay of Pigs operation, for example. Quite frankly I hadn't even recalled him when I met him in March or so of 1972.

Mr. BRAY. You had no real contact with Hunt?

Mr. McCORD. Not prior to the Watergate operation, no, sir. And not since, really, the first day of the trial. I mean we saw each other at trial but that is about all.

Mr. BRAY. The first day of his trial?

Mr. McCORD. January 8, 1972, the Watergate trial; yes, sir.

Mr. BRAY. That is all.

Mr. NEDZI. Mr. McCord, in one of your letters to Mr. Gaynor, dated December 29, 1972, you discussed illegal Government wiretapping of your telephones. Then you referred to two national security calls made by you from your home phone, one to the Israeli Embassy and the Chilean Embassy. Would you explain the significance of those phone calls?

Mr. McCORD. By the date of the meeting that I think the chief counsel asked me about with Alch, in early October 1972, when Alch made the statement to me that nobody gets up on that stand, and then the men were going to be offered executive clemency, and report to the family and so on.

It seemed to me then conclusive that the administration was out to do everything possible to deny a fair trial first of all, keep the men silent, and to bring pressure to bear in whatever ways they could to send us off to jail and stay silent.

Quite candidly, it seemed to me like they were corrupting the entire

criminal justice system. I think what happened since, they have come a long way. Concurrently, as early as August, our telephone was being tapped at home.

Mr. BOB WILSON. How do you tell?

Mr. McCORD. There are a number of things. Interruption of long distance, if not long distance certainly local calls, in which—

Mr. BOB WILSON. My phone is tapped, then, I take it.

Mr. McCORD. There are a number of things. I could dial, call a local call, and either prior to the connection or immediately after the connection we could hear what the person I was calling, who I knew had no extension, an extension being picked up as though someone were listening to call to get the gist of it, if it was an uninteresting call it would be put back on the hook itself.

A number of years in investigating work, there are total unique things on the telephone that will tell you the phone is being tapped.

Mr. BOB WILSON. I assume you are an expert?

Mr. McCORD. I used equipment which I have to test the phone, which goes into an alarm if the phone itself is actually being tapped—if an extension off the phone or if there is a transmitting device of the type we used at the Democratic National Committee being used there. The device went into alarm on numerous cases from July–August on. We would get other indications of the telephone being tapped, which to me is a tapping without question.

It seemed to me totally rational and reasonable immediately after our arrest on June 17 that one of the things of paramount interest to the administration if they were trying to cover up this operation was to find out what damage was being done to the higher-ups, was to find out what we were saying over the phone to our families and to our friends, and to other persons, and that they were in effect, they would want to know this above all else, so they could take protective measures to protect themselves, protect Mr. Mitchell or whoever was in charge of the coverup.

I understand Mr. Mitchell was. These things we were hearing over the phone were to me pretty clear indication that, yes, that was truly happening. I was rationalizing in my own mind it could be done two or three ways. One, simply Attorney General authorized wiretap by his signature alone, which they could pretty much do through the end of June. Or it could be done by a private outfit working for Mr. Mitchell or the administration. It could be done by somebody like Jack Caulfield's capability, he allegedly had to do this to Ulasiwitz and others. There are all sorts of ways it could be done. Some official and some unofficial.

One of the things I believed I had to do first of all was a motion, that my attorney had to do was a motion for discovery of any electric wiretapping that was being done for any reason. I had a young Chilean boy working for me, a college student, who was working part time as clerk at my office in Rockville in early 1972. I knew that he had placed some calls—

Mr. NEDZI. What did he do?

Mr. McCORD. He essentially clipped newspapers on security matters and filed them in a series of files I have, containing nothing but newspaper clippings on all aspects of security matters. He had nothing to do with this matter.

Mr. NEDZI. How did you acquire him?

Mr. McCORD. He was in one of the classes I taught in Montgomery College. He came to me for a job, he was pretty well strapped. I gave him employment for 3 or 4 months. He said he had no phone where he lived and his family from Chile was going to call him, and could he use the phone at the office where it was quiet and he could talk in privacy. I said certainly, go ahead.

He subsequently told me sometime later in June, if not in June later in the spring of 1972, he made calls to someone in the Chilean Embassy, and I think the Chilean military attaché, this is my best recollection. I hadn't known about these calls. I asked him not to do it again, because I drew certain assumptions possibly these types of things might be intercepted and it would not be best for him and certainly not best for me if it happened again.

That was the second series of calls. The first series of calls were personal calls. These were some other calls that were possibly intercepted.

Mr. NEDZI. How did you arrive at the conclusion that they were intercepted, the calls to the Chilean Embassy?

Mr. McCORD. Well, for example, in August 1972 Leonard Budine, the attorney for Ellsberg, stated to the press in Newsweek and Time both that his calls to the Chilean Embassy had been intercepted. And that a motion that Ellsberg had made early in 1972 for Government disclosure of any interceptions the Government for some months had denied it.

And then subsequently in July had admitted it, after he had a court order for the search of all Government records. He said yes, your telephone calls had been intercepted. Budine came out publicly announcing that the calls intercepted were the calls to the Chilean Embassy in Washington, D.C., in connection with business dealings he had had.

I felt two things. One, that it would be well to test the U.S. attorneys by a motion for disclosure.

Mr. NEDZI. You concluded from that that the Chilean Embassy was tapped?

Mr. McCORD. It was so stated, yes, in Budine's statement printed in Newsweek and Time magazines in August 1972 at the time the *Ellsberg* case was up before the Supreme Court, I believe. So I made a couple of fast calls. One simply to get on the record, one with the Chilean Embassy and another at random to the Israeli Embassy.

I had three things in the motion to the U.S. attorneys in terms of disclosure. I wanted to insure there was an adequate search of all Government records.

Mr. NEDZI. Was there a motion actually prepared?

Mr. McCORD. It was filed by my attorney, by Alch, around the 14th of October, and 2 weeks later the U.S. attorneys came back and said no matter what you suspect, there is none. I knew, from 30 years' experience in law enforcement, that they can't check 8 or 10 different law enforcement agencies in 2 weeks and come back with a valid response that there is no interception, permissible interception of the phone calls. It is physically impossible to do it.

Mr. NEDZI. What agencies would they have to check?

Mr. McCORD. All the law enforcement agencies, FBI plus CIA, all

of the agencies with a law enforcement function which have the authority through the Attorney General which might be all the Treasury agencies, Justice agencies, Narcotics, Customs, and any with the given authority.

It is impossible to do it in 15 days and I knew it was impossible. I asked Alch to renew the motion in January to try to get a valid response from the U.S. attorney. He made the motion at the bench, the U.S. attorney immediately said there has been no wiretapping. I knew that again was an invalid and untruthful statement. They had not searched the record. They did not even attempt to search it.

Mr. NEDZI. Was the point made?

Mr. McCORD. I made the point in any way I could make it. Alch said let it go. OK. We renewed that motion the third time through my present counsel just a few days ago for one more final search. I hope this time they will search all Government records. That is the only way it can be had.

The argument before that the search was made was not a truthful answer by the U.S. attorney. It was not a valid response to the motion.

Mr. BOB WILSON. Along that line of questioning, if you suspected that the Chilean Embassy was tapped, how would that help you in proving that your line was tapped? The tap would be on the other end. If you had phoned to a Government agency whose records we could review and establish the contact then—the specific date of the phone call—some agency you knew would record the fact that you called, I could see the validity of that. I don't understand going to the Chilean Embassy because you understood there was a wiretap. I don't know how that would help you in your particular problem of going on record on the wiretap.

Mr. McCORD. Let me answer two ways if I can, sir. Budine's calls that were subsequently admitted by the Government and brought before the judge were calls in the spring of 1972, as I understood it. All right. The calls from my office phone, for example, both from Chile itself, from this young man, occurred at the same time frame, when presumably the same telephones were being tapped. That is the part of the response to it.

It is a good simple point, which is I don't think a valid search was ever made of the record. I am totally convinced of that. We are trying once more to get that. If my attorney's phone was tapped or if mine was tapped—

Mr. NEDZI. Mr. McCord, you stated, I believe, in your memoranda that you had a conversation with Mr. Budine in May of 1972.

Mr. McCORD. Yes, sir.

Mr. NEDZI. In which you inferred that the White House had sought political control over the CIA. On what did you base that? What was the occasion of your contact with Mr. Mardian?

Mr. McCORD. We had two or three contacts in the early part of 1972, when he first came to the Committee To Re-Elect the President. In one of those conversations we were talking in a general discussion about intelligence matters generally, and I don't recall how the conversation began, but I think probably because I had been with CIA, he raised or I raised it somehow.

Mr. NEDZI. Did he call you?

Mr. McCORD. Yes, sir.

Mr. NEDZI. For what purpose?

Mr. McCORD. My best recollection was that he called me to let me know that a request that had been sent to Mr. Mitchell, John Mitchell, initiated by Mr. Odle, as a result of a conversation of mine with Mr. Odle, to the effect that we weren't getting advance notice, for example, of some of the violence-oriented activities that were happening, and I think it was at about the time of the Pentagon bombing here, when some 16 sticks of dynamite blew out a section of the Pentagon wall there.

I went to Odle and expressed the general concern, we ought to have advance notice of anything targeted against the Committee To Re-Elect the President, certainly up through the convention period itself. We could expect that period to be the period of any danger to our people. I asked, if there was any way for me to have a contact with the FBI, so we could set up some form of liaison to get such information.

He wrote Mr. Mitchell a memorandum on this. Mitchell approved it in writing that there be such contact. And the next word I had with Mr. Mardian calling me, and referring to the memorandum of Mr. Mitchell, saying that contact has been set up for you, with my old division, that division being the Internal Security, Department of Justice, for you to have access to the type of information you are seeking pertaining to these potential violents.

My recollection was, it was in connection with that particular meeting when we were talking about such matters, talking about intelligence; we go off into a general discussion of the subject of intelligence. He stated to me that he, John Mitchell, Robert Haldeman, John Ehrlichman, had been appointed and were key members to, as I recalled it, an intelligence advisory committee overseeing the intelligence community or intelligence activity.

He made some statement to the effect that we have got to get control over that function. I took this to mean control over CIA and political control over CIA, because the people he was talking about, that were appointed to that committee, were political personalities, John Mitchell of the Department of Justice, who had been at Department of Justice, Mardian who had been at the Department of Justice, Haldeman and Ehrlichman, both two key political figures in the White House.

That combined with other matters that have been appearing in the press, for example, dating back to 1971, when there appeared to be a total reorganization of the intelligence community by the White House, whether or not coordinated with the Congress I don't know. It appeared to me to be an effort to get political control over CIA intelligence function. I drew that conclusion from it. And to me, what Mr. Mardian was saying just simply strengthened that conclusion in my own mind at that time.

Since then it is pretty much strengthened by some things I read in the press subsequently.

Mr. NEDZI. Another piece of correspondence which was sent to Mr. Gaynor, dated December 29, headed "Notes," you said that the U.S. Attorney had blown the case against the Cubans by personally visiting their employers in Miami affecting their ability to cause a living, and causing them to fire them. What caused that comment?

Mr. McCORD. Just essentially that activity which was reported in the press, that the U.S. attorney, I believe Silbert had visited and began making the rounds——

Mr. NEDZI. You had no personal knowledge of this or it wasn't the result of any conversation you had with anybody at all in regard to the Watergate?

Mr. McCORD. I first read it in the press, this memorandum is dated subsequent to that. I heard it in conversations with Cubans later. Yes, the attorneys had visited Miami. Sturgis had gotten fired as a result of it and so on.

Mr. NEDZI. What was the Cubans' attitude when you talked to them about blaming the CIA, in mutual defense, were they cooperative?

Mr. McCORD. The statements Barker made to me were that I was the only one standing in the way, I was responsible for it not going forward, Hunt had brought great pressure to the Cubans in Miami, at the same time Alch was bringing pressure to me, in mid-December. I gathered from all of it, Hunt's efforts over a period of time have been finally successful in convincing them to use this defense, and that as a result Hunt can certainly—and Barker by that time was somewhat bitter toward me for not going along with this.

Mr. NEDZI. Were you aware of Hunt's contacts with the Agency for the purpose of securing disguise and the tape recorder?

• Mr. McCORD. No, sir.

Mr. NEDZI. You have absolutely no knowledge of that particular transaction?

Mr. McCORD. None whatever, sir.

Mr. BOB WILSON. Mr. Chairman, may I ask a question?

Mr. NEDZI. Yes.

Mr. BOB WILSON. In your memo, Mr. McCord, in the next to the last paragraph you mention Mrs. Hunt had told you that her husband had dictated a three-page letter in which he purported to blow the White House out of the water, and then Mrs. Hunt told you that her husband had said he had information that could impeach the President.

Mr. McCORD. Yes, sir.

Mr. BOB WILSON. Did you ever see a copy of that three-page letter?

Mr. McCORD. No, sir. I heard it referred to by Mrs. Hunt, described. I did not see a copy of the letter. She said it was shown by Bittman to Parkinson or O'Brien.

Mr. BOB WILSON. Did she give you any inkling of what specific points in the letter could blow the White House out of the water, or impeach the President?

Mr. McCORD. No; she did not.

Mr. BOB WILSON. There was no statement as to specific acts the President had done that would impeach him?

Mr. McCORD. What she said led me to the conclusion whatever it was must be awfully powerful if it would have the effect of impeaching the President. It was something very drastic and dramatic—in retrospect, possibly part of it, some of the so-called plumbers activities they had undertaken that dealt with the Ellsberg case and other matters.

Mr. BOB WILSON. You didn't have anything to do with the plumbers activities?

Mr. McCORD. No, sir.

Mr. BOB WILSON. You had no knowledge of them going on?

Mr. McCORD. No knowledge whatever.

Mr. NEDZI. Are you through, Mr. Wilson?

Mr. BOB WILSON. Yes.

Mr. NEDZI. Were you aware of many requests on the part of the Agency to provide a psychological profile on Ellsberg?

Mr. McCORD. No, sir.

Mr. NEDZI. Do you know David Young?

Mr. McCORD. I have heard the name. I don't believe I have met him personally, no, sir.

Mr. NEDZI. Did you have anything to do with him at all directly or indirectly?

Mr. McCORD. I never called him, never received a call from him. My recollection, no contact.

Mr. NEDZI. Do you know anything about the break-in of the office of Ellsberg's psychiatrist of your own knowledge?

Mr. McCORD. No, sir. My first knowledge of it was reading about it in the paper.

Mr. NEDZI. Were you involved in any other clandestine activities as a result of your performance for the Committee To Re-Elect The President?

Mr. McCORD. None other than the ones I described before you all, and whatever else came out before the Senate Watergate Committee in the same context.

Mr. NEDZI. When did you first become aware of the plumbers' unit?

Mr. McCORD. Only when I read the newspaper accounts of them, which was fairly recently.

Mr. NEDZI. Did you know Mr. Haldeman or Mr. Ehrlichman or Mr. Dean?

Mr. McCORD. I have met Dean. I was introduced to him by John Caulfield sometime during one of the early meetings in September, when we were crossing the courtyard at the Executive Office Building when he stopped and introduced me. I talked to him a time or two on the phone subsequently.

Mr. NEDZI. What was the nature of the conversations?

Mr. McCORD. I think it pertained to some volunteers, or either volunteer staff members that were going to be working on the committee itself, and I had always sent Dean a list of the people that were coming aboard, sent to his office. He called me or I called in connection with I think some woman who had come over to go to work as a volunteer and had somehow, we had learned she had threatened the life of John Mitchell, and I wanted to bring it to his attention, or to let him know that we were not going to allow her to come to work there, something of that sort.

Mr. NEDZI. That was the extent of your contact with the three gentlemen?

Mr. McCORD. With Dean. With Haldeman and Ehrlichman I had no direct contact with them at all. I knew the fact they were getting information copies of all the Committee To Re-Elect The President memorandum, Haldeman was. I was so told by Odle.

I saw a copy designated going to them. But nothing in connection with the Watergate operation.

Mr. NEDZI. In one of your pieces of correspondence that was sent to

the CIA, you listed a number of names. What was the significance of those names?

Mr. McCORD. If I can find it. I believe this lists the people that were to my knowledge involved in the Watergate operations, yes.

Mr. BOB WILSON. That is the list you sent to Mr. Helms?

Mr. McCORD. Sent to Mr. Gaynor, I believe, who sent it to Helms. I can't recall at what stage of the correspondence to them this was sent. It seems to me like it was about the peak of the pressure that was being brought to bear by Alch to lay this operation off on CIA. In other words, after December 26.

Mr. NEDZI. How did Colson fit into this to your knowledge?

Mr. McCORD. My testimony previously is accurate in that Hunt during the meetings in the spring of 1972 after we had—after the planning for the Watergate operation had begun, at one of the meetings—first of all Hunt had said he had been working for Colson when I first met him. I got the impression he was continuing to have liaison with him, and at one of the meetings with Liddy and Hunt and myself, Hunt had a typed draft of the Watergate operation typed up, sort of step by step, one or two pages.

We were going over it, and some point during that it seems to me toward the end of the discussion he directed a very cryptic comment which were words to the effect he was holding the paper like that, saying I am going to see Colson. I drew what was to me the obvious conclusion he was going to show Colson the plan for the Watergate operation. Therefore my conclusion that Colson was knowledgeable of the operation.

Mr. NEDZI. You never had anything to do with him personally?

Mr. McCORD. No, sir.

Mr. NEDZI. Nor with Mr. Magruder?

Mr. McCORD. Not in connection with this Watergate operation. I had contact with Magruder for other purposes, legitimate security reasons, matters connected with the committee.

Mr. NEDZI. What is the basis for your statement that the White House was seeking to blame Helms for the Watergate?

Mr. McCORD. In the prepared statement that I gave, well, it was a conclusion drawn on a number of factors. First, the early indications in July, and in this very first letter I sent, words stemming from Mrs. Hunt and Parkinson, there was going to be an effort to lay this operation off onto CIA.

Second, that it seemed to me all through the fall of the year periodically there was a foundation being laid, what I interpreted from press articles, it seemed to me leaks from the White House, this was a CIA operation, and that the first—that the overt steps being taken occurred in late November, early December, it occurred to me, from the word coming that Helms was going to be fired or promoted upstairs or whatever the proper word is.

That seemed to me to be the first step in laying a foundation that this was a CIA operation, so that in the conversations that followed with Alch, for example, in December, 21 to 26, followed only by a couple of weeks, the first word that Helms was being fired, the White House can claim really this was a CIA operation and we fired Helms as a result of it. We shifted him over to another position, what have you.

It looked to me like a ploy that could be used during the defense of the case itself, which was just simply one more factor to substantiate a defense that they were trying to get me to use that this was a CIA operation.

Mr. NEDZI. Was there any contact with Mr. Helms subsequent to the Watergate?

Mr. McCORD. No, sir.

Mr. NEDZI. When was the last time you saw or talked to Mr. Helms?

Mr. McCORD. Sometime just prior to my retirement in 1970—August, the summer of 1970.

Mr. NEDZI. During December, the latter part of December, of 1972, you wrote a letter to Mr. Caulfield?

Mr. McCORD. Yes, sir.

Mr. NEDZI. And in that letter you said something to the effect that the operation would be laid at the CIA's feet, every tree in the forest would fall. What did you mean by that?

Mr. McCORD. Well, I meant—

Mr. NEDZI. Why did you write the letter to Caulfield?

Mr. McCORD. I was very angry at the time at the pitch being made to me by Jerry Alch. I think it was probably written the same day as the second meeting with Alch. I came back extremely angered and upset by what appeared to me to be an effort to go ahead and try to lay this thing off on CIA. Caulfield had recruited me. I just simply wanted to get on the record with him that if this is what they were going to do during the trial itself, and do damage I felt would take about 10 or 15 years for the Agency to recover from, if they were successful in it, that I was going to name every name that I knew that was involved in this operation, John Mitchell, and so on, and do my best to get all the facts out on the table, if it resulted with every tree in the forest falling that was the way it would be. If he got hurt, Caulfield, I was sorry.

Mr. NEDZI. How well do you know Caulfield?

Mr. McCORD. I had not met him before he approached me in September 1971. We saw each other periodically after that time, at lunch and so on. I liked him. He was a personable sort of man. We did not become close friends.

Mr. NEDZI. Did you expect him to convey this message to anyone?

Mr. McCORD. I certainly would.

Mr. NEDZI. To whom?

Mr. McCORD. I assumed frankly John Dean, because I knew he worked for Dean, and I knew also from Liddy that Dean was in the operation.

Mr. NEDZI. Did you write any other letters to him or anyone else at this time?

Mr. McCORD. No, not at this time. I think the only letters in this matter was to CIA and to Caulfield.

Mr. NEDZI. During the entire period, from June 17 to the present time, did you send any letters to anyone to which we have not referred to today?

Mr. McCORD. Yes. I referred to this defendant testimony, I think, in the Senate. In early December there was an article leaked to the press, I believe by the U.S. Attorney. It came out on December 6, this year, the Washington Star, in which in parts of the article the U.S.

attorneys were being quoted by saying the defense of the defendants are going to be thus and so, and that subsequent article, but in conjunction with that it was said, reliable sources reported that McCord refuted the Cubans and used them in an operation of highest sensitivity of the White House.

This looked to me like the first of about 15 different cover stories stemming out of the administration. I felt also only 6 weeks prior to trial perhaps this was another part that was going to be tried. So I wrote a letter, I sent a telegram to Barker. I referred to the article and said what it said. I said you know it is not true and I know it is not true, and you can either correct it or I will correct it. And I would like a written comment in response, because I had some concern as to possibly some other leaks, and some efforts in this regard out of Barker.

I sent a second letter to Hunt. I told him essentially the same thing. I said you know this article is not true and I know it is not true.

Mr. NEDZI. Did you retain copies of those letters?

Mr. McCORD. No, sir, I didn't. But copies of the telegram can be obtained from Western Union.

Mr. NEDZI. These were telegrams that you sent to him?

Mr. McCORD. No. I sent two telegrams and a letter to Hunt. I sent a telegram to William Bittman, the attorney for Hunt.

Mr. BOB WILSON. About what date?

Mr. McCORD. This is the night of December 6, when this Washington Star article came out. I told Bittman the same thing. I said this article is not true, or that this is not true, and in fact I won't stand for it. I think words to that effect. Because I was getting more convinced that Bittman was really in the Biblical role of this whole business of trying to control the defense attorneys and the defendants themselves—

Mr. NEDZI. This was before Alch's pitch was involved?

Mr. McCORD. Yes; it was. I have seen other things transpire. I got word from Alch in October we were going to get executive clemency, nobody will get up on the stand and so on. Things would happen when he received that telegram, Bittman would get in touch with Hunt, and if he was in touch with the White House, he would pass it on to them and say I was not going to lay down for this.

It was McCord's refusal to cooperate, in an effort to take the heat off of the White House. It would focus the spotlight away from Liddy and Hunt, who had both worked for the White House, and shift it to me with no White House connections. And that this would create an impression it was a totally independent operation of McCord's, including the Cubans.

I think that was effective. That was never raised again, and my conclusion was that the telegrams were a success.

Mr. NEDZI. Were there any other letters or telegrams sent by you during this period?

Mr. McCORD. I don't recall any, no, sir.

Mr. NEDZI. Did anyone other than Mr. Alch suggest to you that the CIA records could be doctored in order to assist in the coverup?

Mr. McCORD. No, sir. It was obvious to me, if I can add something, it seemed to me very obvious he must have picked this idea up from somebody else, perhaps in a meeting with Bittman, because it is not something the average person or average lawyer knows. Once you are

retired you are presumed retired. I think somebody suggested the idea to him, possibly in the meeting with Bittman.

Mr. NEDZI. How would Bittman know?

Mr. McCORD. Perhaps through Hunt.

Mr. NEDZI. You have testified to the Senate committee that Liddy spoke to you about the possible burglary of the safe belonging to Mr. Greenspun of the Las Vegas Sun?

Mr. McCORD. Yes, sir.

Mr. NEDZI. To your knowledge was Mr. Hunt involved in this activity in any way?

Mr. McCORD. There may be some connection in this regard. Liddy said that plans for the operation were to involve Cubans, for example, Cuban-Americans in this particular operation. I drew the conclusion Hunt would be involved if that were the case.

Second, in a meeting with Hunt himself in his office he made some statements to me that in roughly mid- or late-May that he was in touch with the Howard Hughes Co., and that after the election they might be interested in my services, security services, and was I interested. I said, well, I have to know more about it. What is it all about? He said maybe we will talk about this at a later time. He never did, but the two things led me to believe that, yes, he would be possibly involved in the operation of Greenspun's safe.

Mr. NEDZI. Was anybody else other than Liddy involved to your knowledge?

Mr. McCORD. Just Liddy, Hunt, and the Cuban-Americans Liddy described.

Mr. NEDZI. You had no other contact in this regard?

Mr. McCORD. No, sir.

Mr. NEDZI. Did you have any contact relative to Watergate or its investigation or any other clandestine activity with any other individuals employed now or at any time by the agency?

Mr. McCORD. No; none at all. No, sir.

Mr. NEDZI. Mr. McCord, Mr. Wilson and I have to go to the floor to vote. It will be probably 10 or 15 minutes. Are you strong enough to stay with us for perhaps another 45 minutes?

Mr. McCORD. As long as you want, sir.

Mr. NEDZI. Much obliged.

Mr. BOB WILSON. I wonder if I might ask this question before we go. Have you since you retired from the CIA been active in any kind of a secret military or quasi-military organization?

Mr. McCORD. I have had a reserve assignment which I am no longer in. That is a joint Air Force-Army-Navy unit, with a legitimate mission.

Mr. BOB WILSON. That is not secret.

Mr. McCORD. Yes, sir. That is all.

Mr. BOB WILSON. I am thinking of a paramilitary, private, quasi-military.

[Recess.]

Mr. NEDZI. Mr. McCord, were you acquainted with Mr. Paul Gaynor?

Mr. McCORD. Yes, sir, I worked for him for a number of years in the CIA.

Mr. NEDZI. How well did you know him?

Mr. McCORD. I would say exceedingly well. I worked for him or with him about 10 years.

Mr. NEDZI. When you were sending these items to Mr. Gaynor, why didn't you sign them?

Mr. McCORD. Well, I suppose it is sort of part of the same reason I didn't sign the memorandum to Mr. Helms. I was afraid correspondence possibly might get out of hand and get into the hands of unauthorized persons or persons that were not intended for them, and maybe that was a right guess, one went to the Sun by misdirection.

I had no doubt Gaynor would know exactly who they came from. There was nobody else they could come from. Certainly in his case he would know that for a fact. Others reading them, if they got circulated otherwise, might have some question as to who they came from.

Mr. NEDZI. In view of your concern, why did you not attempt a personal contact?

Mr. McCORD. My objective was to put them on notice that the administration was, what appeared to be the administration was trying this ploy. I felt that it would be better to have it down in black and white in writing so there could be no misconstruing exactly what I said or anything about it.

In memorandum form it is pretty clear, it is pretty clear cut. I didn't see the same problems developing from this sort of contact, a one-way contact essentially by me, as might be if there were essentially a two-way conversation. I was just afraid it would put CIA people more in jeopardy with a face-to-face conversation than by sending the memorandum.

They couldn't be to blame for what they received through the mail. They might be to blame by somebody else if they sat down and talked with me. Someone might consider it improper. This was somewhat my rationalization of that.

Mr. NEDZI. In one of these memos, you outlined some possible courses of action on the part of the Agency with respect to securing logs and wiretaps, securing evidence, and that kind of information. Were you not concerned that this might be an illegal activity on the part of the Agency?

Mr. McCORD. Yes, I think I better explain some of the memorandum referred to as notes essentially which were notes to myself. I simply sent them a copy of it. I think the one of January 3, and the one of December 29, that sort of thing. I had no objection to the Agency knowing I was seeking evidence in this regard. I had no expectation they were going to provide any such information to me at all. But in terms of what I was seeking to do in trying to determine impermissible interceptions of my conversation, I had no reluctance in advising CIA in that format just exactly what I was seeking.

I never contacted anyone there to try to see if they had actually found anything in the way of logs or anything of that sort. I certainly had no objection to their knowing what I was doing in court and what motions we had made in this regard. I never sought to obtain logs from them or anything of that type. Some of these things are set down, I think the wording is fairly clear it is a memorandum to myself based on pretty complex conversations with Alch and some others.

I was trying to keep a record of what was going on. I yanked off a copy and sent it to CIA.

Mr. NEDZI. Do you have any recollection of sending letters to Barker or Hunt relative to the newspaper articles?

Mr. McCORD. No; I don't, because at the end of the trial I destroyed a lot of paper, when I was off to jail essentially, and I didn't know what transpired next, and I didn't want anything around. I would assume the Western Union telegrams to Barker and to Bittman can be recovered from Western Union by subpoena, but I don't have copies of them.

Mr. NEDZI. Following your trial what did you destroy?

Mr. McCORD. This was done before the end of the trial, before my conviction. I have some odds and ends of notes of this sort. I did not want them around the house, with just my wife there. She was working during the day. So I disposed of these.

They were notes to myself and really in terms of the progress of the trial, and things of this sort that were happening. So pretty near the end of the trial it was quite clear a conviction was forthcoming, I disposed of them.

Mr. NEDZI. I don't quite understand your reasoning.

Mr. McCORD. Well, I suppose that it might be considered—I considered some of this material perhaps in some form incriminating evidence that I did not want around the house during the period of time I might be serving in jail——

Mr. NEDZI. Incriminating who?

Mr. McCORD. It depends on who is mentioned in these memorandums or anything else I might have. I just felt it was best for my family that there not be anything of this sort around when I was off for a period of time in jail. I had no idea how long I would be there. So I disposed of them.

Mr. NEDZI. Do you know Mr. Howard Osborn?

Mr. McCORD. Yes, sir, I worked for him.

Mr. NEDZI. Do you know him well?

Mr. McCORD. I have known him, he was my superior, and I was one of his division chiefs, section division chief for some years under him, 5, approximately 5 years. I knew him in a superior-subordinate relationship.

Mr. NEDZI. Did you know one another socially?

Mr. McCORD. We had seen each other during normal social occasions. We didn't have much visiting between our homes. But certainly we knew each other in the course of official-social relationships, certainly.

Mr. NEDZI. How about Mr. Grogh?

Mr. McCORD. Bill Grogh, I have known him casually in connection with the agency's work in years past, mostly in the fifties. I don't recall having seen him in the sixties very much.

Mr. NEDZI. In your August 29 letter to Helms, you said a committee told Paul O'Brien that the operation was a CIA operation. Was that in reference to Watergate?

Mr. McCORD. Yes, sir. What I was intending to convey that the Committee To Re-Elect the President had told——

Mr. NEDZI. Is that August 29 or July 29?

Mr. McCORD. July 29 is the date I have.

Mr. HOGAN. Yes.

Mr. NEDZI. July 29.

Mr. McCORD. What I intended to convey was committee lawyers, Paul O'Brien specifically, had said persons in authority at the committee had told him it was a CIA operation, that the initial word that O'Brien got from the committee was that this was a CIA operation.

Mr. NEDZI. You made no effort to contact Mr. Gaynor except through these letters?

Mr. McCORD. No, sir.

Mr. NEDZI. Do you know a Mr. [deleted]?

Mr. McCORD. [Deleted.] Yes, sir.

Mr. NEDZI. What is your association with him?

Mr. McCORD. We had worked together. He was in another part of the agency in the 1950's in connection with work involving the Soviet intelligence service. We dealt with each other during that period on a fairly regular basis. I don't recall having seen him since or dealt with him except casually since about 1965, maybe earlier than that. I certainly saw him while I was at the CIA.

Mr. NEDZI. You haven't seen him since?

Mr. McCORD. No, sir.

Mr. NEDZI. You have had no contact with him?

Mr. McCORD. No, sir.

Mr. NEDZI. In the January 5 notes you said the prosecution is planning to state that the motives for at least some of the defendants was blackmail?

Mr. McCORD. Yes, sir.

Mr. NEDZI. This came out in the ACLU hearings today which the ACLU lawyers said he was told this by the prosecution. Would you elaborate on that?

Mr. McCORD. Yes, sir. The reference to this, as I recall, came up in two court sessions. One in a court hearing on January 5 when the ACLU lawyer had been before the judge discussing a motion that he had entered regarding prohibiting disclosure of the contents of the wiretap conversations.

And in that connection he stated that at a luncheon with one of the defendants' U.S. attorneys, I believe Mr. Silbert, and a friend of ACLU lawyers, when they were discussing the case as I recall Silbert said that the motive was blackmail, that is the motive in undertaking the Watergate operation.

My recollection is the ACLU lawyer's comments in court were words to the effect it sounded rather preposterous to him. It again came up in the Court of Appeals hearing on the same motion subsequently early in January, in which case the ACLU lawyer appeared, and I believe the ACLU lawyer raised the same reference to that luncheon discussion.

My recollection is that Judge Bazelon, or one of the judges, turned to the U.S. attorneys and asked in effect if they made that statement. My recollection was Mr. Silbert said yes, he had made such a statement. I think that is the recollection I have on it. The general tone and tenor of what transpired was that the ACLU lawyer disbelieved it as a motive.

Mr. NEDZI. Who were you referring to as the outfit in the first paragraph of that note, the first item of those notes?

Mr. McCORD. I was referring to sort of an overall package of what I believe the Committee to Re-Elect the President, the administration, the White House specifically, and in this particular case in the efforts in late December to my own attorney as a part of that package, Mr. Alch, that is.

Mr. NEDZI. Did you have any association with ACLU at all?

Mr. McCORD. No, sir, never.

Mr. NEDZI. Have you been cooperating in their motion for anything?

Mr. McCORD. I had a question or two from them. I haven't visited their offices. I haven't sent them any material.

Mr. NEDZI. Did you ever have occasion to use as a cover the name of Edward L. Warren?

Mr. McCORD. I believe that was a name that I used on the night of our arrest when I was arrested, yes, sir.

Mr. NEDZI. Do you have any documents to establish that alias?

Mr. McCORD. No, sir. The background of that is just before going over to the Watergate Hotel, Watergate Office Building, the evening of June 16-17, Hunt handed me some credentials, that is, some I think driver's license or other types of credentials, and said to use these in case anybody questions you, the guards or what have you.

I stuck them in my pocket, I glanced at them and stuck them in my pocket. When I was arrested these were in my possession. They were turned over to the police. I subsequently had them when—turned over to the police in D.C. Jail. That is the last I have seen of them. I assume the prosecution has recovered them.

Mr. NEDZI. Where do you think Hunt got those?

Mr. McCORD. I have no idea, sir.

Mr. NEDZI. Do you have any reason to feel he might have gotten them from the CIA?

Mr. McCORD. The answer is I don't know, because I understood Mr. Caulfield had some capability for getting this type of documentation as well.

Mr. NEDZI. From where?

Mr. McCORD. From non-CIA sources.

Mr. NEDZI. Mr. McCORD, let's go back just to clear the record to the time immediately preceding the trial, after your meeting with Judge Sirica, at which time you indicated to him you were going to continue to retain Mr. Alch as your attorney.

When was the trial held?

Mr. McCORD. The trial began January 8.

Mr. NEDZI. Did you retain additional counsel at that time?

Mr. McCORD. I had been using Mr. Shankman as the lawyer, the local lawyer, that is Mr. Alch, as his local representative, yes, sir.

Mr. NEDZI. You were represented by those two gentlemen in the course of the trial?

Mr. McCORD. In the course of the trial, Mr. Rothblatt in the civil proceedings.

Mr. NEDZI. Who is Mr. Rothblatt?

Mr. McCORD. Henry Rothblatt, an attorney in New York.

Mr. NEDZI. How did you happen to retain him?

Mr. McCORD. I think I engaged him at the time Barker had first engaged him for himself, and the other defendants in the criminal

proceedings. It turned out he was going to be handling their civil work too. I don't recall exactly how it transpired, but I think because I felt he had a familiarity with the case——

Mr. NEDZI. This was done on Barker's recommendation?

Mr. McCORD. Barker had originally contacted him and I discussed it with Barker, and I think I went to Rothblatt and asked him if he would serve as my lawyer since he was working on the other cases and there was some similarity in the civil suit.

Mr. NEDZI. The civil suit is the one brought by the Democratic National Committee?

Mr. McCORD. Yes, sir. I wouldn't say I went to him on Barker's recommendations as such. I knew he was going to be handling the civil work for Barker and the Cubans, and at about that time this was in July or August, my recollection is I contacted Rothblatt myself.

Mr. NEDZI. Does he still represent you?

Mr. McCORD. He does.

Mr. NEDZI. Who is paying for his services?

Mr. McCORD. Well, I paid for some of his services. I know that. I assume the Cubans paid for their share of the services to him.

Mr. NEDZI. You are receiving no subsidy from anyone for this purpose?

Mr. McCORD. No, sir.

Mr. NEDZI. Following the trial, or in the course of the trial, was the suggestion that the CIA was responsible for this event brought up?

Mr. McCORD. Well, in the context of the conversations I had with Barker only, I don't recall at this moment any suggestion other than that during the trial that they resurrect this defense that CIA was responsible for it, if that is what you mean, sir.

Mr. NEDZI. Yes. Was there any additional conversation about clemency or having your family taken care of or any representations along this line made following the trial?

Mr. McCORD. Yes, sir, there were, beginning the first day of the trial, that is covered in the statement. I can enter it for the record here and give it to you, that I gave to the Senate Watergate Committee. It is about 15 pages in which Mr. Alch first in the other trial told me Mr. Bittman wanted to see me, and in connection with executive clemency.

I guess the word is importuned me to go to Bittman's office that afternoon along with Barker to what I thought was to be a joint pitch for the two of us by Bittman, but which turned out to be a separate meeting for each of us, in which I was told that a man I knew from the White House would be in touch with me regarding the executive clemency—or would be in touch with me, period.

I subsequently called——

Mr. NEDZI. You testified to all of this before the Senate committee?

Mr. McCORD. Yes, sir.

Mr. NEDZI. You have a copy of your statement?

Mr. McCORD. Yes.

Mr. NEDZI. You will furnish it for the record?

Mr. McCORD. Yes, sir.

[The following information was received for the record:]

To : Senate Watergate Committee.

Subject : Political pressure on the writer to accept executive clemency and remain silent.

Political pressure from the White House was conveyed to me in January, 1973 by John Caulfield to remain silent, take executive clemency by going off to prison quietly and I was told that while there I would receive financial aid and later rehabilitation and a job. I was further told in a January meeting in 1973 with Caulfield that the President of the United States was aware of our meeting, that the results of the meeting would be conveyed to the President, and that at a future meeting there would likely be a personal message from the President himself. The dates of the telephone calls set forth below are the correct dates to the best of my recollection.

On the afternoon of January 8, 1973, the first day of the Watergate trial, Gerald Alch, my attorney told me that William O. Bittman, attorney for E. Howard Hunt, wanted to meet with me at Bittman's office that afternoon. When I asked why, Alch said that Bittman wanted to talk with me about "whose word I would trust regarding a White House offer of executive clemency." Alch added that Bittman wanted to talk with both Bernard Barker and me that afternoon.

I had no intention of accepting executive clemency, but I did want to find out what was going on, and by whom, and exactly what the White House was doing now. A few days before, the White House had tried to lay the Watergate operation off on CIA, and now it was clear that I was going to have to find out what was up now. To do so involved some risks. To fail to do so was in my opinion to work in a vacuum regarding White House intentions and plans, which involved even greater risks, I felt.

Around 4:30 p.m. that afternoon, January 8th, while waiting for a taxi after the Court session. Bernard Barker asked my attorneys and me if he could ride in the cab with us to Bittman's office which we agreed to. There he got out of the cab and went up towards Bittman's office. I had been under the impression during the cab ride that Bittman was going to talk to both Barker and me jointly, and became angered at what seemed to me to be the arrogance and audacity of another man's lawyer calling in two other lawyers' clients and pitching them for the White House. Alch saw my anger and took me aside for about a half hour after the cab arrived in front of Bittman's office, and let Barker go up alone. About 5:00 p.m. we went up to Bittman's office. There Alch disappeared with Bittman, and I sat alone in Bittman's office for a period of time, became irritated, and went next door where Bernard Shankman and Austin Mittler, attorneys for me and Hunt respectively, were talking about legitimate legal matters. Alch finally came back, took me aside and said that Bittman told him I would be called that same night by a friend I had known from the White House. I assumed this would be John Caulfield who had originally recruited me for the Committee for the Reelection of the President position.

About 12:30 p.m. that same evening, I received a call from an unidentified individual who said that Caulfield was out of town, and asked me to go to a pay phone booth near the Blue Fountain Inn on Route 355 near my residence, where he had a message for me from Caulfield. There the same individual called and read the following messages.

"Plead guilty."

One year is a long time. You will get Executive Clemency. Your family will be taken care of and when you get out you will be rehabilitated and a job will be found for you.

"Don't take immunity when called before the Grand Jury." The same message was once again repeated, obviously read.

I told the caller I would not discuss such matters over the phone. He said that Caulfield was out of town.

On Wednesday evening, January 10, the same party called and told me by phone that Jack would want to talk with me by phone on Thursday night, January 11, when he got back into town, and requested that I go to the same phone booth on Route 355 near the Blue Fountain Inn. He also conveyed instructions regarding meeting Caulfield on Friday night, January 12.

On Thursday evening, January 11, the same party called me at home and told me that Caulfield's plane was late and that he wanted to meet with me personally the same evening after arrival. I told him that I would not do so but would meet with him Friday night if he desired. Later that evening about 9:30 p.m., Caulfield called me on my home phone and insisted on talking with me but my family refused to let him do so, since I was asleep.

On Friday night, January 12, from about 7:00 p.m. to 7:30 p.m., I met with Caulfield at the second overlook on George Washington Parkway in Virginia and talked with him in his car. Caulfield advised that he had been attending a law enforcement meeting in San Clemente, California, and had just returned. I advised him that I had no objection to meeting with him to tell him my frame of mind but that I had no intention of talking executive clemency or pleading guilty; that I had come to the meeting at his request and not of my own, and was glad to tell him my views.

He said that the offer of executive clemency which he was passing along and of support while in prison and rehabilitation and help toward a job later "was a sincere offer". He explained that he had been asked to convey this message to me and was only doing what he was told to do. He repeated the last statement several times.

My response was that I would not even discuss executive clemency or pleading guilty and remaining silent, but I was glad to talk with him, so that there was no misunderstanding on anyone's part about it.

Caulfield stated that he was carrying the message of executive clemency to me "from the very highest levels of the White House". He stated that the President of the United States was in Key Biscayne, Florida, that weekend, had been told of the forthcoming meeting with me, and would be immediately told of the results of the meeting." He further stated that "I may have a message to you at our next meeting from the President himself."

I advised Caulfield that I had seen the list of witnesses for the trial and had seen Jeb Magruder's name, appearing as a government witness. I advised him that it was clear then that Magruder was going to perjure himself and that we were not going to get a fair trial. Further I told him that it was clear that some of those involved in the Watergate case were going to trial and others were going to be covered for (I was referring to John Mitchell, John Dean and Magruder) and that was not my idea of American justice. I further advised Caulfield that I believed that the government had lied in denying electronic interception of my phone calls from my residence since June 17, 1972, and that I believed that the administration had also tapped the phones of the other defendants during that time. I mentioned two specific calls of mine which I had made during September and early October 1972, which I was certain had been intercepted by the government, and yet the government had blithely denied any such tapping. I compared this denial to the denial the government had made in the Ellsberg Case, in which for months the government had denied any such impermissible interception of the calls and yet in the summer of 1972 had finally been forced to admit them when the Judge ordered, by court order, a search of about a dozen government agencies; and calls intercepted were then disclosed. I stated that if we were going to get a fiction of a fair trial, through perjured testimony to begin with, and then for the government to lie about illegal telephone interceptions, that the trial ought to be kicked out and we start all over again, this time with all of those involved as defendants. At least in this way, "some would not be more equal than others" before the bar of justice and we would get a fair trial.

The executive clemency offer was made two or three times during this meeting, as I recall, and I repeated each time that I would not even discuss it, nor discuss pleading guilty, which I had been asked to do in the first telephone call received on the night of January 8, from Caulfield's friend, whose identity I do not know. I told him that I was going to renew the motion on disclosure of government wiretapping of our telephones.

Caulfield ended the conversation by stating that he would call me the next day about a meeting that same afternoon, Saturday, January 13, and that if I did not hear from him, he would want to talk to me by telephone on the evening of Monday, January 15, 1973.

I did not hear from Caulfield on Saturday but on Sunday afternoon he called and asked to meet me that afternoon about an hour later at the same location on George Washington Parkway. He stated that there was no objection to renewing the motion on discovery of government wiretapping, and that if that failed that I would receive executive clemency after 10 to 11 months. I told him I had not asked anyone's permission to file the motion.

He went on to say that "the President's ability to govern is at stake. Another Teapot Dome Scandal is possible and the government may fall. Everybody else is on track but you. You are not following the game plan. Get closer to your attorney. You seem to be pursuing your own course of action. Don't talk if called

before the Grand Jury, keep silent, and do the same if called before a Congressional Committee."

My response was that I felt a massive injustice was being done, that I was different than the others, that I was going to fight the fixed case, and had no intention of either pleading guilty, taking executive clemency or agreeing to remain silent. He repeated the statement that the government would have difficulty in continuing to be able to stand. I responded that they do have a problem, but that I had a problem with the massive injustice of the whole trial being a sham, and that I would fight it every way I knew how. He asked for a commitment that I would remain silent and I responded that I would make none. I gave him a memorandum on the dates of the two calls of mine in September 1972 and October 1972 that I was sure had been intercepted, and said that I believed the government had lied about them. He said that he would check and see if in fact the government had done so.

On Monday night, January 15, 1973, Caulfield called me again at the phone booth on Route 355 near my residence. I informed him that I had no desire to talk further, that if the White House had any intention of playing the game straight and giving us the semblance of a fair trial they would check into the perjury charge of mine against Magruder, and into the existence of the two intercepted calls previously referred to, and hung up.

On Tuesday morning, about 7:30 a.m., Caulfield called my residence but I had already left for Court.

On Tuesday evening, Caulfield called and asked me again to meet with him and I said not until they had something to talk about on the perjured testimony and the intercepted calls. He said words to the effect "give us a week," and a meeting was subsequently arranged on January 25, 1973 when he said he would have something to talk about.

About 10:00 a.m. on Thursday, January 25, 1973, in a meeting lasting until about 12:30 p.m., we drove in his car toward Warrenton, Virginia, and returned, and a conversation ensued which repeated the offers of executive clemency and financial support while in prison, and rehabilitation later. I refused to discuss it. He stated that I was "fouling up the game plan." I made a few comments about the "game plan." He said that "they" had found no record of the interception of the two calls I referred to, and said that perhaps it could wait until the appeals. He asked what my plans were regarding talking publicly, and I said that I planned to do so when I was ready, that I had discussed it with my wife and she said that I should do what I felt I must and not to worry about the family. I advised Jack that my children were now grown and could understand what I had to do, when the disclosures came out. He responded by saying that "You know that if the Administration gets its back to the wall, it will have to take steps to defend itself." I took that as a personal threat and I told him in response that I had had a good life, that my will was made out and that I had thought through the risks and would take them when I was ready. He said that if I had to go off to jail that the administration would help with the bail premiums. I advised him that it was not a bail premium, but \$100,000 straight cash and that that was a problem I would have to worry about, through family and friends. On the night before sentencing, Jack called me and said that the administration would provide the \$100,000 in cash if I could tell him how to get it funded through an intermediary. I said that if we ever needed it I would let him know I never contacted him thereafter; neither have I heard from him.

Mr. NEDZI. Fine. I recall listening to some of the testimony at that time, and I recognize nothing has occurred since then which lead you to change your testimony.

Mr. McCORD. No, sir. That testimony is accurate and truthful.

Mr. NEDZI. Has anything occurred since that time?

Mr. McCORD. No, sir, nothing else during the trial at all and nothing since.

Mr. NEDZI. Do you have any personal knowledge of any Government programs of any sort to perform surveillance of other embassies of foreign nationals?

Mr. McCORD. In what context, sir? I am sorry.

Mr. NEDZI. Just in a general context.

Mr. McCORD. I have been aware, since my days with the FBI, they have some responsibilities in this area by law or delegation from the Attorney General.

Mr. NEDZI. There was nothing brought to your attention in the course of your employment since your retirement from CIA, however?

Mr. McCORD. No, sir.

Mr. NEDZI. When you were employed with the CIA, did you have any contact with FBI personnel?

Mr. McCORD. Oh, yes, I had periodic contact liaison with them on official matters I was working on.

Mr. NEDZI. What kind of matters?

Mr. McCORD. One of my areas of work for about 10 years was a responsibility in terms of what the Soviet intelligence service would be doing or was doing in efforts to penetrate the CIA. As a natural result, in connection with that, I would have periodic liaison contacts with FBI agents who might be working on some counterpart activities in the States, say a Soviet intelligence officer who might be traveling from Europe to the United States, that sort of thing.

Mr. NEDZI. Do you have any questions, Mr. Hogan?

Mr. HOGAN. Thank you, Mr. Chairman, just a couple.

For the record, Mr. McCord, were you present when Mr. Alch appeared before the Senate hearings?

Mr. McCORD. Yes.

Mr. HOGAN. He was under oath, wasn't he?

Mr. McCORD. Yes.

Mr. HOGAN. Didn't he deny that he suggested to you this CIA ploy?

Mr. McCORD. Yes, sir, and in his denial he perjured himself.

Mr. NEDZI. There was some reference to a lie detector test, as I recall in the course of his testimony.

Mr. McCORD. Yes.

Mr. NEDZI. And some question as to whether you were willing to submit to one, and that he was. Would you comment on that?

Mr. McCORD. Sure. I believe it was stated that I have no objection to the lie detector test. I stated in connection with the Watergate hearings of the Senate it would seem to me imprudent to build in certain protective measures in connection with the use of it. I felt in connection with the Watergate hearings, if they planned to use it against one or two witnesses whose testimony was opposed to each other, that they were contrary to each other, it would likewise be fair to use it with others, there not be a selective use of it, not simply pick on one or two people to use it.

Now, let me add what I really intended to say in addition. If such a polygraph test is to be given, my suggestion was be sure that the person or persons giving it are objective, because in this field there are men who are reputable and men who are not reputable; and there are men who have a financial interest in seeing that a particular person taking the test comes out clean, and if, for example, the polygraph tester has done work for a law firm before, such as F. Lee Bailey's, and give Gerard Alch a test, I don't think it is a very valid outcome.

The polygraph test is complicated. I think, if all the necessary things are built into it, to insure an objective test, then I certainly would have no objection to it at any time concerning any matter testified to. In this field some of these things should be included in it.

Mr. HOGAN. At the meeting, at the Monocle, where this CIA suggestion was made by Alch, was Mr. Shankman present?

Mr. McCORD. Yes; he was.

Mr. HOGAN. In Boston on the 26th you discussed the same matter. Who else was present at that meeting?

Mr. McCORD. None during our discussions, but during the discussions between Alch and me there were other members of his law firm present during the luncheon we had. But not during the substantive discussion.

Mr. HOGAN. Was the matter brought up at the luncheon?

Mr. McCORD. One or two times. But no discussions at length. I think the substantive conversations for the most part were during the individual meetings that he and I had.

Mr. HOGAN. I see. At the present time, Mr. McCord, who is paired off against who in this situation as far as the whole Watergate developments are concerned? You have indicated some pairing off here.

Mr. McCORD. Yes. Talking about defendants, for example.

Mr. HOGAN. Yes; exactly.

Mr. McCORD. I think I stand sort of separate and apart from the others. There is from my standpoint perjured testimony on the part of Mr. Barker, in his testimony before the Senate Watergate Committee. I think essentially that—I know he has perjured himself concerning pressure that, as I have said was told me, was brought to bear on him to put the operation off on CIA, and to take executive clemency, apart from that, and accept money and so on.

Mr. HOGAN. How about you and Mr. Liddy?

Mr. McCORD. We have gotten along in the past. We have obviously gone separate ways in this particular case. There was no hostility, since we were in the same—neither was there a great friendship between the two of us. However, we were in the same cell, and we discussed legal strategy and these sorts of things.

Mr. HOGAN. Wasn't he the prime source of your information about the so-called they and higher-ups? You really never got beyond Liddy on that information, did you?

Mr. McCORD. No; Liddy was my prime source. Hunt was supplemental source of some of the information. Liddy simply was the boss in the operation. Hunt was just subordinate. Barker was the third man down in charge of the team.

Mr. HOGAN. How about going down the home trail in December of 1972, when your suspicions were very strong? Was Liddy the source of your information about the CIA ploy?

Mr. McCORD. In no response that I recall. My source was direct conversations with Alch and the pitch he made to me; is that what you mean?

Mr. HOGAN. Yes; your own personal knowledge now, I mean, of conversations. You are looking to Alch only.

Mr. McCORD. Well, I am just stating.

Mr. HOGAN. Did you have a conversation with Hunt or with Liddy that would directly indicate to you that there was a CIA ploy adrift?

Mr. McCORD. I had conversations with Barker. I had some brief conversations with the Cubans involved in this. They said they had been fixed by Hunt in Miami, in December, about the same time I was being picked up up here. I am saying essentially everybody but Liddy,

I didn't get this from Liddy at all, I heard it from the other Cubans, I heard it principally from Barker, and I say I and those four men.

Mr. HOGAN. So that the "they" you use so frequently in these notes to Mr. Gaynor, "they," they this and they that, in talking about the CIA ploy, they, then you are referring to Barker, you are referring to Alch and the Cubans?

Mr. McCORD. I think it would depend on the context of the letter. If it was a letter after January 3, I think there is a January 3 and January 5 letter.

Mr. HOGAN. There is a January 5 letter.

Mr. McCORD. The January 5 memo, where we refer to "they," yesterday they tried to get all the defendants to plead guilty, thus protecting those higher in involvement. I would say "they" in this context, I was using Barker's statements to me, for example, that Hunt and other unnamed persons were trying to get the Cubans to plead guilty.

I felt this came from Bittman, their lawyer.

Mr. HOGAN. That is the conclusion you were drawing?

Mr. McCORD. Conclusion.

Mr. HOGAN. I am talking about relatively firsthand information, people talking to you.

Mr. McCORD. Cubans telling me, each one, individually, they had been fixed, Barker particularly, in more than one conversation. Liddy and Hunt are the only exceptions. I may be using "they" in terms of the Cubans, I may be using "they" in terms of the whole package of the administration.

Mr. HOGAN. But that whole package business again is a conclusion that you draw from your conversations?

Mr. McCORD. Yes; that is right. It is a conclusion based on several months' experience and background received. And I repeat, particularly in terms of Alch telling me in early October, nobody gets on the witness stand. They will have executive clemency, and payments, and that sort of thing. It came from somewhere. Alch didn't have the authority to give executive clemency.

Mr. HOGAN. Wasn't it your feeling the prosecution was also accepting this line? Didn't you so state?

Mr. McCORD. I believe I so stated in some of my memos. This is the conclusion I drew from all the things I saw happening. It seemed to me it was a tacit event.

Mr. HOGAN. Now that we may clarify some of the times in the record, would you tell us when you were arrested, was that, on June 17?

Mr. McCORD. The morning of June 17.

Mr. HOGAN. When were you indicted?

Mr. McCORD. September 19, 1972.

Mr. HOGAN. And when was the trial?

Mr. McCORD. Began January 8, concluded January 30, 1973.

Mr. HOGAN. You were jailed at that time at the conclusion of the trial?

Mr. McCORD. Yes.

Mr. HOGAN. When were you released from jail?

Mr. McCORD. My recollection is it was March 7, 1973.

Mr. HOGAN. You made the statement that the White House appeared to be looking out for the defendants, and you mentioned Mrs. Hunt. Who else are you saying was looking out for the defendants? You are

talking about the White House. Was there anybody else besides Mrs. Hunt that was working with you helping you as the defendants?

Mr. McCORD. Speaking of the defendants as a group.

Mr. HOGAN. Yes, that is the language you used in your testimony.

Mr. McCORD.

Mr. McCORD. From what you are saying, what Hunt was saying, obviously Parkinson and/or O'Brien, but certainly Parkinson was involved in this based on what I saw occurring. Bittman, in other words I was taken to Bittman's office, who all of a sudden wanted to talk to me about executive clemency.

William Bittman, the attorney for Hunt, was involved in it in the role I described. The Liddy statements to me that Mitchell had originally OK'd the operation and directly approved it was conclusive to me, that he played a role in the coverup operation, that the things Parkinson was doing and Bittman was doing was being coordinated.

Mr. HOGAN. Your information was coming from Liddy, your direct contact with Liddy, and your direct contact otherwise was Mrs. Hunt?

Mr. McCORD. Before June 17, the principal source was Liddy, supplemented by what Hunt said. After June 17 it came from Barker, it came from the Cubans, it came from Hunt, it came from Mrs. Hunt, very little came from Liddy.

Mr. HOGAN. Why did you stop writing these letters to Mr. Gaynor, or these notes, I should say?

Mr. McCORD. As I stated in one of the final letters, the crisis was over, we headed off this, it was not going to continue, and there was no further need to alert him.

Mr. HOGAN. Do you believe there was any connection between the CIA and the Watergate affair?

Mr. McCORD. I believe that there was none. I stated that in my letter to Judge Sirica. I am totally convinced that they were not behind the operation, it was not a CIA operation, it was a White House operation, and a CRP operation. I think all testimony to date has proven that beyond any questioning.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. FENSTERWALD. Mr. Chairman, just so the record will be clear, you asked a few minutes ago whether Mr. McCord had had any connection with the ACLU. He answered he had not. Just so that there is no question about it, Charles Morgan, who is the lawyer in this case, is an acquaintance or a friend, and I have had conversations with him about the Watergate case.

Mr. NEDZI. Fine.

Mr. FENSTERWALD. I don't think there is any problem with it, but I just didn't want to leave the impression I had not been in touch with him, because I have on several occasions.

Mr. NEDZI. Mr. McCord, we want to thank you very much. You have been a cooperative witness. We are very appreciative.

The committee will stand recessed until further call of the Chair.

[Whereupon, at 1:50 p.m., the subcommittee was recessed.]

**HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
*Washington, D.C., Thursday, June 28, 1973.***

The subcommittee met, pursuant to adjournment, at 10 a.m., in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order.

Good morning, Gentlemen: As we continue our inquiry into the Ellsberg-Watergate-CIA matter, we have as our witness today Mr. E. Howard Hunt, former White House Consultant. [Accompanied by counsel, William Bittman.]

After being sworn, Mr. Hunt, we will receive any statement you may have and then indulge in some questions and answers.

Would you now rise to be sworn?

Do you swear that the testimony you are about to give in the hearing will be the truth, the whole truth and nothing but the truth, so help you God?

Mr. HUNT. I do.

TESTIMONY OF E. HOWARD HUNT, FORMER WHITE HOUSE CONSULTANT, ACCOMPANIED BY COUNSEL, WILLIAM BITTMAN

Mr. NEDZI. Please be seated.

Do you have any statement you would like to make to the committee before we begin our questioning?

Mr. HUNT. No, Mr. Chairman. I do not.

Mr. NEDZI. Could you tell us, then, what the duration of your employment at the Agency was?

Mr. HUNT. From approximately October 1949 until on or about the 1st of May 1970 I was employed by the Central Intelligence Agency.

Mr. NEDZI. Was your retirement a voluntary one?

Mr. HUNT. Yes, sir. It was a requested retirement; I requested retirement.

Mr. NEDZI. The request was on your part?

Mr. HUNT. Yes, sir. It had to be approved by the Director of Central Intelligence. It was approved.

Mr. NEDZI. Did you retire under the terms of the CIA Retirement Act?

Mr. HUNT. Yes, sir, having completed many years of overseas service.

Mr. BRAY. How many years?

Mr. HUNT. I would say no fewer than 14, sir.

Mr. WILSON. Our little subcommittee wrote the Retirement Act that made it a little more beneficial for you to retire.

Mr. NEDZI. When you left the Agency what did you do?

Mr. HUNT. I became employed by a public relations firm in Washington, the Robert R. Mullen Co., of 1700 Pennsylvania Ave.

Mr. NEDZI. How did you happen to become employed by them?

Mr. HUNT. The initial contact was through the outplacement service of the Central Intelligence Agency.

Mr. NEDZI. Were you acquainted with Mr. Mullen at the time you were employed by the company?

Mr. HUNT. Only to the extent that we had been introduced through an official of the outplacement service, and we had held a number of conversations toward my possible employment. Other than that, I was not acquainted with Mr. Mullen.

Mr. NEDZI. How long before you were employed by Mullen?

Mr. HUNT. A matter of perhaps 2 to 3 months.

Mr. NEDZI. What were to be your responsibilities at the company?

Mr. HUNT. My initial responsibility, sir, was that I was the account executive for the Bureau of Education for the Handicapped account, which was held by the Mullen Co. That was part of HEW.

Mr. NEDZI. Has nothing to do with security matters?

Mr. HUNT. No, sir.

Mr. NEDZI. Were you aware of any relationship of the Mullen Co. to the Agency?

Mr. HUNT. Yes, sir; I was.

Mr. NEDZI. At the time you became employed by Mullen?

Mr. HUNT. To my recollection, it was not until after I was employed by Mullen that I became aware of such relationship by seeing persons whom I identified with the Agency call on Mr. Mullen from time to time.

Mr. NEDZI. Did you perform any other services for Mullen besides those for which you were hired?

Mr. HUNT. I worked on a variety of accounts. We had several accounts with the U.S. Information Agency. I was active on those.

I worked from time to time on the General Foods account.

That was, roughly, the totality of my services.

Mr. NEDZI. Was there anybody else in the company with whom you are acquainted, outside of those employed by the Agency?

Mr. HUNT. I am sorry?

Mr. NEDZI. Was there anybody else in the Mullen Co. with whom you were acquainted, prior to your employment?

Mr. HUNT. No, sir.

Mr. NEDZI. Did you know Mr. Bennett at the Mullen Co.?

Mr. HUNT. I had met Mr. Bennett after my employment with the Mullen Co.

Mr. NEDZI. When did your relationship with Mullen terminate?

Mr. HUNT. I understand from newspaper accounts, sir, that the Mullen Co. discharged me on or about the 19th of June 1972.

Mr. NEDZI. You were never advised by them of the discharge?

Mr. HUNT. No, sir, never officially.

Mr. NEDZI. When did your paychecks cease?

Mr. HUNT. I would have to assume, sir, that it was coincident with expiration of my employment.

Mr. NEDZI. You were paid how much?

Mr. HUNT. Initially, \$100 per day; subsequent to my appointment as consultant at the White House my daily fee was raised to \$125 per day.

Mr. NEDZI. Did you have any regular schedule, or how frequently did you go in to consult?

Mr. HUNT. At Mullen Co.?

Mr. NEDZI. Yes.

Mr. HUNT. Oh, I was a full-time employee there. What I should say is that given the nature of the account itself, the Mullen Co. billed HEW for the services of individual employees of the Mullen Co. and a time-spent basis. I was a full-time employee of the Mullen Co., fully, or 90 percent of the time, at least, occupied with HEW matters. That is, they billed HEW for my services, on a daily basis.

Mr. NEDZI. My question was, how much were you paid?

Mr. HUNT. Oh, I was paid \$100 a day until I became appointed as a consultant to the White House, at which time the Mullen Co. raised my Mullen Co. salary to—

Mr. NEDZI. How many days a week did you work?

Mr. HUNT. For Mullen Co., 3 to 4 days a week.

Mr. NEDZI. Did your payment vary?

Mr. HUNT. Yes, sir, it did. -

Mr. NEDZI. So you consulted with them 3 or 4 days a week, so you were getting \$300 to \$400 a week?

Mr. HUNT. From Mullen Co., yes, sir. And—

Mr. NEDZI. When did you begin work with the White House?

Mr. HUNT. On or about July 6, 1972.

Excuse me. 1971.

Mr. NEDZI. Did you work anyplace else in the interim between the time you retired and the time you became employed by the White House?

Mr. HUNT. No, sir. My retirement took effect on Friday, I believe, and I joined the Mullen Co. on the following Monday.

Mr. WILSON. May I ask a question?

Mr. HUNT, you started to say "and," as if you were drawing pay from some other place than Mullen Co.

Were you, when you were at Mullen Co.?

Mr. HUNT. No, sir.

Mr. WILSON. That was your entire compensation?

Mr. HUNT. For such days as I worked at the White House, I was going to say, I billed the White House for work at the White House.

Mr. WILSON. In other words, that work was not through the Mullen Co., it was directly as a consultant.

Mr. HUNT. That is right.

Mr. BRAY. There is no connection between your employment at the White House and the Mullen Co.?

Mr. HUNT. No, sir, except it was cleared by Mr. Colson, my superior at the White House, with Mr. Bennett. That is, Mr. Colson expressed a desire to take me on board at the White House as a consultant and queried Mr. Bennett whether this would be satisfactory to the Mullen Co. And that was the arrangement that was made.

Mr. NEDZI. You retired in 1970. Then you went with the Mullen Co. for approximately—a year?

Mr. HUNT. Yes, sir.

Mr. NEDZI. Then became employed by the White House?

Mr. HUNT. Yes, sir.

Mr. NEDZI. Will you tell us how you became employed by the White House?

Mr. HUNT. Yes.

I had known Mr. Charles W. Colson for a number of years.

Mr. NEDZI. How did you happen to meet him?

Mr. HUNT. We met through a mutual interest in the activities of the Brown University Club of Washington, D.C.

At one time Mr. Colson was president of the Alumni Club, and I was the vice president.

Mr. NEDZI. How long was your acquaintanceship?

Mr. HUNT. I would put it from 1965, sir. We found that our politics were very similar.

I knew Mr. Colson was very active in the Nixon campaign.

After Mr. Colson joined the White House we continued an on-and-off social relationship, my office with the Mullen Co. was right across from the White House. Occasionally I was Mr. Colson's guest at the White House mess. Occasionally Mr. Colson and his wife joined us for dinner at my home.

There came a time, I would say in May or early June 1971, when Mr. Colson invited me to lunch at the White House mess and asked me how affairs were going at Mullen Co. I said the relationship had not developed as I had been given to understand it would, that while I was not actively seeking other employment I was somewhat disillusioned with my position at Mullen and Co.

He told me the White House was interested in—that there was a possible opening at the White House for a man with my particular capabilities, that is to say, with my background in intelligence work, and asked would I be interested. I said I would be.

Mr. NEDZI. When was this?

Mr. HUNT. To the best of my recollection it was late May or early June 1971.

Mr. NEDZI. Then how did you happen to get hired?

Mr. HUNT. Within a matter of a few weeks Mr. Colson indicated to me, I believe by telephone, that he would like to see me.

I went to his office, he informed me that indeed a position had evolved, described it as relating to a series of leaks of national security information, centering principally around the so-called Pentagon Papers affair, indicated that I would be working with and for him.

He attempted to ascertain my availability. I indicated that this was a matter that would have to be resolved with my current employers, Mullen and Co.

He said he would take care of that.

He asked me how soon I could enter on duty. I indicated again this depended on what arrangement he could make with Mullen and Co.

On or about the 6th of July he again invited me to the Executive Office Building.

Mr. NEDZI. At this time what did he tell you that you were expected to do if you were hired?

Mr. HUNT. It was couched in terms of leakage of national security information. He indicated there was a leak in the SALT talks, that re-

lease of highly classified portions of the Pentagon Papers had become a source of great concern to the White House.

He indicated further that the White House had been unable satisfactorily to reconstruct the origins of U.S. involvement in the Vietnam war, and said first of all if I, in fact, did join the White House in a consultant capacity I should become "the White House expert," I believe he put it, on the origins of the U.S. involvement in the Vietnam war.

Mr. NEDZI. In this connection, what were you expected to do?

Mr. HUNT. In the latter connection, sir?

Mr. NEDZI. Yes. In all connections.

Mr. HUNT. At that time it was not specified. It was not until after I met Mr. Ehrlichman and was formally taken on board, approved by Mr. Ehrlichman, that more specific details were given me.

Mr. NEDZI. Following this conversation, will you proceed chronologically as to what happened, in order to give us an idea as to how you actually came on board?

Mr. HUNT. Yes, sir.

There came a time when, I believe, as early as July 6 or 7, when Mr. Colson called me over and told me that he would like to introduce me to Mr. Ehrlichman, who had expressed interest in me as a potential candidate for employment. He took me to Mr. Ehrlichman's office, we chatted briefly, Mr. Ehrlichman inquired of my background in intelligence work. I gave him a brief résumé of my background.

I don't believe the conversation could have lasted more than 5 minutes at the most.

Mr. Colson accompanied me back to the office in the Executive Office Building, and later in conversation he indicated I had received Mr. Ehrlichman's approval and they were anxious for me to begin work as soon as possible.

Mr. NEDZI. When did he indicate to you that you received Ehrlichman's approval?

Mr. HUNT. I believe it was the same day that I met Mr. Ehrlichman, sir.

Mr. NEDZI. Was there a gap? Or were you with Mr. Colson all day?

How did it happen, again? I got the impression that you just left the office. How did you get word Ehrlichman had approved you?

Mr. HUNT. I would assume he received a telephone call from Mr. Ehrlichman. Mr. Colson's office telephone was constantly ringing. Normally his replies would be monosyllabic.

While we were chatting, I suppose his phone rang a dozen or 15 times.

At the termination of one call, he indicated to me I had received, in effect, the endorsement of Mr. Ehrlichman, and as soon as possible I was to commence work for the White House.

Mr. NEDZI. What did Mr. Ehrlichman say to you?

Mr. HUNT. The details are very vague, necessarily, at this point, in my mind, Mr. Chairman. To the best of my recollection, Mr. Ehrlichman asked me what my relations with the Central Intelligence Agency had been. I indicated they had been good; that I retired of my own volition; that I considered Mr. Helms a personal friend; that I had worked for Mr. Dulles. And I said I felt sure if he inquired at the Central Intelligence Agency, I would be given a clean bill of health.

He asked me the type of operations I had been involved in over the years. I described some of them, mostly involving political action; that I had been involved in the Bay of Pigs operation, in the Guatemalan operation; that in more recent years I had concentrated almost exclusively on counterespionage affairs in Europe.

Mr. Ehrlichman seemed satisfied with that résumé of my operational history.

As I said, I don't believe my conversation—it was pretty much a monolog—could have lasted more than 10 minutes.

Mr. NEDZI. Nothing else of substance was discussed at that session, to your recollection?

Mr. HUNT. Not to the best of my recollection; no, sir.

Mr. NEDZI. So you came back to Mr. Colson's office, and Mr. Colson said that Mr. Ehrlichman had approved you?

Mr. HUNT. Yes, sir, within a period of 15 to 20 minutes, I would think; yes, sir.

Mr. NEDZI. When did you actually get immersed in your work at the White House?

Mr. HUNT. I believe the following day.

Mr. NEDZI. What did you do then?

Mr. HUNT. I was given an office on the third floor of the White House, the Executive Office Building. Mr. Colson suggested I obtain from the White House Press Office all available material then currently being published relating to the Pentagon Papers, the legal controversies surrounding publication of those papers, the information that was then coming out concerning Mr. Ellsberg—Dr. Ellsberg—and his alleged complicity. A vast stack of material was delivered from the Press Office to my particular office in the Executive Office Building, and for the next several days I simply immersed myself in all of the available material that had been forwarded to me by the White House Press Office. And of course, there was a continuous flow of material incoming from time to time.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. I would like to clear up one thing.

Earlier you said you did not know exactly when you were relieved from work with the—what was the company?

Mr. HUNT. Mullen Co., sir.

Mr. BRAY. Mullen Co.

Mr. HUNT. Yes, sir.

Mr. BRAY. When you started work at the White House, were you immediately relieved from the Mullen Co.?

Mr. HUNT. No, sir. The arrangement with the White House was for days I worked at the White House, the White House would pay me; for days I worked for Mullen Co., Mullen Co. would pay me.

Mr. BRAY. Did Mullen Co. know of this work at the White House?

Mr. HUNT. Oh, definitely yes. They did not know the specifics of it.

Mr. BRAY. There was no conflict between Mullen and the White House over your working—

Mr. HUNT. Oh, no. Mullen Co. felt it was a feather in their cap to have a consultant at the White House.

Mr. BRAY. Finally, you were spending most of your time at the White House, and the Mullen Co. then discharged you?

Mr. HUNT. No, sir. It was not until the week following the Watergate entry.

Mr. BRAY. Oh, I see.

Mr. HUNT. That was the following year.

Mr. BRAY. That clarifies it. I see.

Mr. HUNT. Yes, sir.

Mr. WILSON. Did you get a raise with Mullen when you went on the White House staff?

Mr. HUNT. Yes, sir.

Mr. WILSON. That raised you to \$125?

Mr. HUNT. Yes, sir.

Mr. NEDZI. Mr. Hunt, earlier in your testimony, you stated that in your conversation with Mr. Colson, the relationship at Mullen did not develop the way you thought it would, you stated to Mr. Colson.

Mr. HUNT. Yes, sir.

Mr. NEDZI. Would you clarify that statement?

Mr. HUNT. Yes, sir.

During one of my earlier interviews with Mr. Mullen prior to my retirement from CIA, and again prior to my being hired by the Mullen Co., Mr. Mullen indicated to me he had been in the public relations business for a number of years, that he was getting on in years himself, that he looked forward to retirement, and he had developed a plan under which he wanted to take in younger blood into the firm. He had in mind three candidates who would form a triumvirate, take over the firm and operate it, and he would be, in effect, a retired emeritus director of the company; he indicated to me a young man there in the office, an attorney from the General Foods Co., Douglas Caddy, would be one; I would be the second; and Bob Bennett, son of the Senator, would be the third.

Within a short time of the three of us joining the Mullen firm it was his plan the directorial duties of the company would be turned over to us, and we would become the directive partners.

Mr. NEDZI. Were either or both of the other two at any time associated with the Agency?

Mr. HUNT. Not to my knowledge.

Mr. NEDZI. Apparently this did not work out. Did anything occur that indicated this would not come to pass?

Mr. HUNT. Yes, sir.

Initially, when Mr. Mullen and I discussed salary he asked me my salary with the CIA, I told him, and told him that I would be receiving an annuity and did not expect to receive from the Mullen Co. the salary I had been receiving from CIA. So he asked what I thought would be an equitable figure. I said I would prefer that he set it, and he said, "Let's make it a couple thousand a month," which to me meant \$24,000 a year.

When I received my first paycheck I saw my salary had been placed at \$1,500 a month. I diplomatically remonstrated with Mr. Mullen over this, and he said, "Well, if I said that then I will make it right." So my salary at that point was set at \$2,000 a month.

Within a matter of a few months, I would say probably the early Autumn of 1970, Mr. Caddy and I had been discussing among ourselves the lack of any forward motion on the plan Mr. Mullen had

initially discussed with us, that is, his departure from the firm, leaving it in the hands of "younger blood."

Mr. Caddy had received an offer from a law firm in the District of Columbia. Using that offer he approached Mr. Mullen to see what Mr. Mullen's intentions were with regard to passing along the interest in the firm to Mr. Caddy, Mr. Bennett and myself. And he reported to me, that is, Mr. Caddy that Mr. Mullen had indicated to him that he had changed his mind and that, in fact, Mr. Bennett had offered to buy the firm from him and become sole owner. That took place in due course, by the end of the year, I think that was the transitional period.

Subsequently, Mr. Bennett offered me an opportunity to buy into the firm as a minority partner. I consulted legal counsel at this point and was advised by the attorney that it would be foolhardy of me to invest any money as a stockholder or to purchase any equity in a firm as closely held as Mullen Co. stock was, that I would be simply at the mercy of the gentleman who controlled the majority stock, and that continuing on as an employee was one thing but becoming an active stockholder was against his advice. I thanked Mr. Bennett for his offer, but declined to purchase stock in the company at that point.

Mr. NEDZI. Earlier you said you were employed as a \$100-a-day consultant.

Mr. HUNT. Yes, sir.

Mr. NEDZI. Will you reconcile that with your testimony that you were to get \$2,000 a month, or \$1,500 a month?

Mr. HUNT. That would really involve the bookkeeping practices of Mullen Corp. If I did have a day's work for General Foods they billed General Foods for that. If I worked for USIA a few hours, or half a day, the Mullen Co. billed USIA. They arranged their bookkeeping so I got, in effect, a gross salary of \$2,000 a month.

Mr. NEDZI. Why did you not say that earlier? I kept asking you "How much did you earn?"

Mr. HUNT. I am sorry, sir.

Mr. BOB WILSON. On that line: When you were paid by the Mullen Co. were you paid by check?

Mr. HUNT. Yes, sir.

Mr. BOB WILSON. Did you pay deductions for medical care, and so forth?

Mr. HUNT. Everything, yes, sir.

Mr. BOB WILSON. How about when you were paid by the White House?

Mr. HUNT. Deductions?

Mr. BOB WILSON. Yes.

Mr. HUNT. Yes, sir, by Government check.

Mr. BOB WILSON. You got a Government check from the White House, too?

Mr. HUNT. Yes; but not for the same days.

Mr. BOB WILSON. Oh, no. You were not paid in cash, in other words?

Mr. HUNT. No, sir, by Government check.

Mr. BOB WILSON. A regular White House account?

Mr. HUNT. I think it said "Drawn on the Executive Office of the President."

Mr. NEDZI. Can you explain why you said, when I asked you whether you made \$300 to \$400 a week you said "Yes"?

Mr. HUNT. I would put it this way, sir: From Mullen & Co. I was getting approximately \$100 a day. Over an average period of time it would work out I was getting—working 3 or 4 days a week for Mullen Co., drawing \$300 or \$400 from the Mullen Co., and say the fifth day I would have worked for the White House, and I would get a check from them for that day.

I was not trying to conceal anything, sir. I must have misinterpreted the question.

Mr. NEDZI. I still do not understand how that squares with \$2,000 a month. I don't think it is pertinent to our inquiry, Mr. Hunt. But I can not understand a slip-up like that.

Mr. HUNT. I have not worked out the arithmetic, sir.

Mr. BOB WILSON. Did you get the same amount every month?

Mr. HUNT. Yes; until such time as I began working for the White House.

Mr. NEDZI. You were testifying, Mr. Hunt, that you immersed yourself for a few days following July 8, 1971, in reviewing articles on the Pentagon Papers disclosures.

Mr. HUNT. Yes, sir.

Mr. NEDZI. During that time this is all you were doing, reading articles? Were there meetings with anybody, plans being drawn for anything?

Mr. HUNT. Yes, sir. I believe I was working in the White House on the first Saturday I was employed there, I was in my office, I got a call from, I believe Mr. Colson's office—he not being there at the time—asking me to take part in an interagency meeting which had been hastily called in the Roosevelt Room in the White House. I then met Mr. Egil Krogh for the first time.

Mr. NEDZI. Excuse me. You said it was the first Saturday. Was July 7 a Monday?

Mr. HUNT. It was the 6th or 7th. On a Monday, yes. It would have been about the first Saturday—

Mr. NEDZI. About the 10th or 11th of July?

Mr. HUNT. Yes.

To the best of my recollection there were approximately 15 men present representing, in effect, the intelligence community, the security aspects of the intelligence community.

Mr. NEDZI. Can you recall the names of any of the individuals who were there?

Mr. HUNT. No; except that Mr. Krogh was there and chaired the gathering.

Mr. NEDZI. You can not recall anybody else who was there?

Mr. HUNT. No, sir, I can not.

The Defense Intelligence Agency was represented, CIA was not there; the Federal Bureau of Investigation was present. I believe the National Security Agency.

These were all men who obviously had worked together before, knew each other well. I was—it was my first introduction to a White House meeting.

The subject of the meeting was a news leak which was believed to involve the Department of Defense.

Ideas and concepts for determining the person responsible for the leak were solicited by Mr. Krogh. I made a very minor contribution.

I asked if there was an active list of suspects. I determined from the DIA representative that, in fact, there was a list of persons in the Department of Defense who had had access to this particular material.

I suggested sealing their safes prior to inventory. And there was some—it being a holiday weekend—there was some further discussion concerning the propriety of so doing without the knowledge of the individuals involved.

Mr. Krogh indicated—

Mr. NEDZI. What did you mean by holiday weekend?

Mr. HUNT. This was a Saturday, and the persons whose safes would be sealed for later inventory would not be there.

Mr. NEDZI. I see. It was a weekend.

Mr. HUNT. That is right. Yes, sir. The idea being, at least one of the conferees suggested it might not be appropriate to seal a man's safe without his being present, or that an inventory should not be taken of classified materials without the individual being present.

This was not a matter on which I could offer any thoughts. It was left to Mr. Krogh, who dealt out certain action assignments to representatives of the different agencies.

Within the space of 45 minutes or so the meeting was dissolved.

That was the first meeting I had had on security matters in the White House.

Mr. NEDZI. This brings us up to July 10 or July 11. What did you do that following week?

Mr. HUNT. I continued working on the Pentagon Papers material. I believe about this time I was told by Mr. Colson that a unit was being set up, headed by Mr. Krogh, in the basement of the Executive Office Building. He simply referred to it as Room 16, and said that this group concerned itself with special security matters, that is to say, leaks.

Mr. NEDZI. Who did he say was setting up the unit?

Mr. HUNT. He was not specific. He probably said, "You have already met Mr. Krogh, and Mr. Young will be joining him in this office."

When I went downstairs to, in effect, report to Mr. Krogh, I was introduced to Mr. Young and to Mr. Gordon Liddy for the first time. I found that at that time an office had been hastily assembled there. They had things—they obtained casual secretarial help, had gotten sort of a situation room. They had a special set of locks put on the door.

In the situation room Mr. Krogh, or one of his assistants, had pinned to sort of a cork wallboard a series of operational topics or subjects which should be pursued—the SALT leak, Pentagon Papers, things of that nature.

It was what he referred to as a PERT flow chart, something I was not familiar with previously. I gathered it was a management device of some sort.

As the day went on more material was added to this particular flow chart, indicating assignments of individuals, the status of reports from the Department of Justice, status of requests that had been made of the FBI for specific information on a topic or an individual.

I had a semi-office there, that is to say, in the situation room itself there was an empty table similar to this, where I read the classified materials that were being forwarded to that office on a daily basis from defense agencies of the U.S. Government.

Mr. NEDZI. To your recollection, which agencies?

Mr. HUNT. For the most part, sir, the Federal Bureau of Investigation.

This centered largely around the Pentagon Papers leak.

Mr. NEDZI. Were there other agencies which forwarded materials to you?

Mr. HUNT. I recall there were Secret Service reports, too, yes, sir.

Mr. NEDZI. Any other?

Mr. HUNT. I believe some material came to room 16 by transmission from Judge Fred Buzhardt, General Counsel at that time to the Department of Defense.

Mr. NEDZI. Anything from the State Department?

Mr. HUNT. I do not recall any particular input from the Department of State. There may have been.

Mr. NEDZI. CIA?

Mr. HUNT. Not until I became involved with the psychological profile of Dr. Ellsberg, later. I do not believe there were any CIA documents as such.

Mr. NEDZI. You were actually introduced to this room, then, the week after you had attended the meeting with the 15 or so individuals?

Mr. HUNT. In the ensuing week, yes, sir, to the best of my recollection, sir.

Mr. NEDZI. I understand the 10th was a Saturday, 1971.

What do you regard as the next milepost in this experience of yours?

Mr. HUNT. I was asked by Mr. Colson to interview a retired CIA officer whom I had known from OSS days in China.

Mr. NEDZI. When?

Mr. HUNT. I believe that was during the week of the 13th of July of that year, to the best of my recollection.

Mr. NEDZI. That would be the same week—

Mr. HUNT. The same week I was introduced to room 16, yes, sir.

First of all, Mr. Colson called me into his office, as I recall the development of events, and inquired if I by any chance knew or had ever known a Major or Colonel Conein. I said yes, that I had known him quite well in OSS, that in fact we trained for the Far East together in 1944. He indicated to me from his own readings and interpretations of several—of material that overtly appeared in the newspapers, Colonel Conein had a principal operational role at a critical point in the development of United States relations with South Vietnam. He asked me if I thought that I could make contact with Colonel Conein. I said I would be very glad to try.

Mr. NEDZI. Where was Colonel Conein at this time?

Mr. HUNT. He was at that time retired from CIA, living, I believe, in McLean, Va., as a private person.

I made my contact with him simply by using the telephone book. I called, myself. I identified myself by name and told him I was now at the White House and would appreciate an opportunity to talk with him.

He said he would be delighted to see me.

I said it was a matter of some urgency that really could not wait until lunch the following day and would he be willing to come to my office at the White House.

He said he would be, and in fact came to my office in the White House where I interviewed him for a period of time, specifically with regard to the events leading up to the assignation of Premier Diem of South Vietnam and his recollection of the posture of the Department of State, the Central Intelligence Agency, the group that was called—the special group that was then advising President Kennedy on the conduct of the war in South Vietnam; the personal knowledge of the, say succession, of ambassadors under whom he had served in South Vietnam, his relationships with Premier Diem and his brother; his knowledge of the political temper of the country at the time that the revolt of the colonel's had come about, whether or not the Embassy had offered asylum to Premier Diem, whether a crucial or decisive role had been played in any role by U.S. authorities either in the United States or in Vietnam which had brought about the revolt that led to the assignation of the then Premier of South Vietnam.

Mr. NEDZI. Do you recall the date of that interview?

Mr. HUNT. No, sir. I do not. I would——

Mr. NEDZI. Was it somewhere around July 13, would you say?

Mr. HUNT. I would place it within a very few days of the time that I had had this initial meeting with the gentlemen from this Inter-agency Group.

Mr. NEDZI. Did you prepare a summary or memorandum of meeting?

Mr. HUNT. I did, sir.

Mr. NEDZI. Where is it?

Mr. HUNT. I have no idea. It was submitted to Mr. Colson, my principal.

Mr. BOB WILSON. What date was this meeting with Mr. Krogh?

Mr. NEDZI. The 10th, the first Saturday.

Mr. HUNT. To the best of my recollection, it was the first Saturday of my employment at the White House.

Mr. BOB WILSON. That is in direct conflict with a statement Mr. Ehrlichman made.

I assume he is talking about the so-called "Plumbers." He said "Krogh had been in Asia on narcotics control prior to July 16 and met with Agent David Young in Sacramento on July 17."

How would you have met on that date, a week before, when Mr. Krogh was in Asia?

Mr. HUNT. I am testifying to the best of my recollection.

Mr. BOB WILSON. I think the dates are very important. Because we are trying to determine who asked aid from the CIA. I think it is very important that we establish the right days.

Mr. NEDZI. Off the record.

[At this point, discussion was had off the record, after which the following was had on the record.]

Mr. NEDZI. Back on the record.

Did Mr. Krogh indicate that he was about to leave for Asia, or anything along those lines?

Mr. HUNT. No sir, not to me. I had no impression either that he had come from Asia recently or was en route to Asia. This was a very hurriedly called meeting. I happened to be in the White House that day, which is the only reason, I am sure, that I was included in that particular meeting.

Mr. NEDZI. Do you have anything else, Mr. Wilson?

Mr. BOB WILSON. Well, I don't know whether we can determine whether Mr. Krogh made a hurried trip to Asia. There was not any inference that he had.

Mr. Ehrlichman said that "Thus, if in fact I called the general between July 7 and July 18, from California for help for Hunt, it must have been the first and only time I did so without Presidential direction."

And I would not have thought—we have not determined it yet, but I would not have thought that it would have been after the time that this Plumbers meeting, which was set up on the 24th of July, that there was any request to the CIA.

Mr. NEDZI. I expect to get into that, Mr. Wilson. We are just following the chronology Mr. Hunt is giving us.

Mr. HUNT. Chronologically, Mr. Chairman, with regard to the circumstances under which I met General Cushman, I would be very glad to go into that now, because I have now advanced beyond that period of time in the narrative chronology that I have been supplying.

Mr. NEDZI. I wish you would.

Mr. HUNT. Yes, sir.

Mr. NEDZI. Because I assumed that that would be one of the mileposts in your narrative here today.

Mr. HUNT. Yes, sir.

On or about the 7th of July, to the best of my recollection, I had heard from Mr. Robert Bennett—

Mr. BRAY. From whom?

Mr. HUNT. Mr. Robert Bennett—who was the president of the Mullen Corp., that a former employee of his at the Department of Transportation, Clifton DeMott, had been calling him, making something of a pest of himself, saying he had a great deal of information on the Kennedy family, particularly then with reference to Senator Kennedy, and that if anybody was knowledgeable of "dirt" in the Kennedy background it was Mr. DeMott, who had served at one time as the general factotum for the Kennedys during the 1960 campaign, that Mr. DeMott, who no longer worked for the Department of Transportation but was working, I believe in the Rhode Island area, was very anxious to reestablish a political level connection with the current administration and hoped to do so through Mr. Bennett and through information that he felt that he alone, he, Mr. DeMott, was in a position to supply.

I notified Mr. Colson of this situation, since I knew he was keenly interested in preparing for the oncoming campaign.

He suggested to me that I interview this gentleman under an alias, and in a fashion which would not be traceable back to the White House.

I then returned, or communicated again with Mr. Robert Bennett, and said that Mr. DeMott could expect a visitor.

I got from Mr. Bennett Mr. DeMott's home. I gave him an alias name—I believe Ed Warren. At that juncture I told Mr. Colson that in order to prevent my being recognized at some future time, by Mr. DeMott and others whom Mr. Colson indicated he might on future occasions want me to interview, I felt I should receive some sort of physical disguise.

Mr. NEDZI. Let's fix the time as precisely as we can, Mr. Hunt.

This was on July 7?

Mr. HUNT. 7th or 8th, I would say, sir, yes.

Mr. NEDZI. This was before you had actually been hired by the White House?

Mr. HUNT. No, sir. My employment to the best of my recollection began on or about the 6th of July.

Mr. NEDZI. The 6th of July?

Mr. HUNT. Yes, sir.

Mr. NEDZI. You got the call from Mr. Bennett the following day?

Mr. HUNT. Pardon me?

Mr. NEDZI. You got the call from Mr. Bennett the following day?

Mr. HUNT. I was at Mullen Co., I believe, and Mr. Bennett simply brought this to my attention. I referred it then to Mr. Colson who said it would be a good idea—

Mr. NEDZI. This was the following day, upon your being hired?

Mr. HUNT. Yes, sir, to the best of my recollection.

I return now to my request for physical disguise to conduct an interview of the type Mr. Colson felt would be appropriate under the circumstances.

Mr. NEDZI. Yes, sir.

Mr. HUNT. I asked Mr. Colson if physical disguise could be obtained from the Federal Bureau of Investigation for the purpose of this particular interview. He said it probably could not, and indicated some reluctance to approach any of the authorities. I did not pursue it.

I asked him then if it would be possible for the Secret Service unit in the White House to provide me with some elements of physical disguise. He again indicated a great reluctance on his part to approach the Secret Service.

I felt there was a general feeling, at least at Mr. Colson's level, of nonresponsiveness to requirements, as regards Secret Service liaison, FBI liaison, with individual offices in the White House.

Then he asked me if "old friends in the CIA" could not provide me with disguise materials, and I said that would be out of the question, that I was no longer with the Agency, it would be highly inappropriate for me to make such request on a personal basis for the issuance of, in effect, technical supplies which were controlled by CIA alone.

He said, "Do you think a call from the White House—"—again, I am not able to give—quote Mr. Colson fully. As I recall, he said, "Do you feel a call from the White House could"—in effect—"produce the needed results?"

I said, "I am sure it would."

He said, "I will look into it and let you know."

To the best of my recollection, within a day or two of that particular interview, I received a call, and I want to be very precise about this because I know this a matter of some importance; I believe I received a telephone call from a Karl Wagner, who was the Special Assistant, I believe, to General Robert Cushman, Deputy Director of the Central Intelligence Agency at that time, indicating an appointment had been made for me to see General Cushman at a particular time—I believe it was that very afternoon.

As I recall it, we firmed up the arrangements for my going over to

Langley and seeing General Cushman. I believe I reported to Mr. Colson's secretary, or to Mr. Colson, himself; my recollection is not clear on this point. I took a White House limousine over to the Central Intelligence Agency where I was expected. I was shown into General Cushman's office. Mr. Wagner was present.

I asked General Cushman if we could speak privately.*

He indicated that was no problem. Mr. Wagner withdrew, and I said to General Cushman—he said, "I received a call about your coming over, Howard; what can I do to help?"

I said, "I will need items of physical disguise from the Technical Services Department of the Central Intelligence Agency."

I said, "There are for the purpose of interview. I would like some pocket litter, some flash alias documentation, if possible."

I said, "Nothing that needs very deep backstopping."

He said, "I am sure we can arrange it. There is no problem. Tell Karl what you need."

We shook hands; I went to the outer office and told Karl I would need physical disguise, I don't know what the Agency might have; I said, "Why don't you just put me in touch with the technician and let him decide what would be needed for this particular mission?"

Mr. BOB WILSON. Did you ask the general at that time for a recording device and a camera?

Mr. HUNT. Not at that time; no, sir. To the best of my recollection, I never asked the general for those items.

Mr. BOB WILSON. Are you going to tell us how you happened to get them?

Mr. HUNT. Yes; I am, sir. Yes.

Mr. BOB WILSON. All right.

Mr. NEDZI. Mr. Hunt, let's go back on the dates now.

Within a day or two following July 7, you mentioned to Mr. Colson that you had had a call from Mr. Bennett.

Mr. HUNT. Yes, sir.

Mr. NEDZI. Or you had contact with Mr. Bennett.

Mr. HUNT. Yes, sir.

Mr. NEDZI. Or you had contacted Mr. Bennett.

Mr. HUNT. Yes, sir.

Mr. NEDZI. And Mr. DeMott was brought to your attention.

Mr. HUNT. Yes, sir.

Mr. NEDZI. And at that time it was decided that a call—that the CIA was an Agency where you might get your physical disguises.

Mr. HUNT. Yes, sir.

Mr. NEDZI. And the day or two following that, you got a call from Mr. Wagner?

Mr. HUNT. From Karl Wagner to the best of my recollection, yes, at my White House extension.

Mr. NEDZI. This would put it at about the time you had this meeting with Mr. Krogh, the first time you met him?

Mr. HUNT. I met Mr. Krogh, to the best of my recollection, on a Saturday. So I would have received, to the best of my recollection, Mr. Chairman, and I have no record, no way to refer to anything, or to refresh my recollection, I received a call from Mr. Wagner prior to my first meeting with Mr. Krogh, which was on a Saturday. I am sure I

*For transcript of visit see Appendix, p. 1125.

did not receive a call from anybody at the Central Intelligence Agency on a Saturday.

Mr. NEDZI. Then a couple of days after that, you went to see General Cushman?

Mr. HUNT. To the best of my recollection; yes, sir.

Mr. NEDZI. Mr. Hunt, all of the documentation that we have indicates that you saw General Cushman on July 22.

Mr. HUNT. I would be perfectly willing to accept that documentation, sir.

Mr. NEDZI. Which is almost 2 weeks after what you were testifying to.

Mr. HUNT. Mr. Chairman, I can only say that I am laboring under some difficulties, in trying to reconstruct.

Mr. NEDZI. I can understand that.

Mr. HUNT. I certainly would not dispute the record.

To me, it seems as if I had barely arrived at the White House before I was placed in contact with General Cushman's office. Whether it was a matter of a day or a week, or 10 days, to the best of my recollection I would have to say it happened almost immediately.

I would lay that simply to faulty recollection on my part. I was working very hard in those days on a number of things, both at the Mullen Co., and for Mr. Colson on the Pentagon Papers.

Mr. NEDZI. We will get back to that, Mr. Hunt.

Why don't you go ahead and tell us your account of what happened in your transaction with the CIA?

Mr. HUNT. Yes, sir.

I believe I had reached the point at which I was giving a list of desiderata to Mr. Wagner, who indicated to me that these matters could be handled without any difficulty at all. I did not make him privy to the use for which I intended these items.

He told me just stand by for a call within a few days.

Mr. NEDZI. Why did you not make General Cushman or Mr. Wagner privy to what you wanted these items for?

Mr. HUNT. On the need-to-know principle, sir, which is upheld within CIA and, as far as I know, all their intelligence organizations.

General Cushman was receptive to my request. I do not believe my question was raised by him as to what I intended to use the items for. Certainly Mr. Wagner did not inquire. They had no need to know, was the fact of the matter.

Mr. NEDZI. Did it occur to you that there was a question of legality here, whether the CIA was violating the law in providing you with this kind of material?

Mr. HUNT. No, sir.

Mr. NEDZI. Why not?

Mr. HUNT. Having served almost 21 years in the Central Intelligence Agency, sir; I had seen—I had been aware, let me put it, that the CIA was regarded as a service organization to the intelligence community, and certainly to the Chief Executive.

Mr. NEDZI. To help in domestic operations?

Mr. HUNT. This, sir, was hardly a domestic intelligence operation, in my opinion.

Mr. NEDZI. Spying on Senator Kennedy was not a domestic operation?

Mr. HUNT. Eliciting information, is how I would—

Mr. NEDZI. Eliciting information on Senator Kennedy, however you phrase it, was that not a domestic operation, purely, clearly, simply?

Mr. HUNT. It was a domestic operation engaged in by the White House, but not by the CIA. May I put it on that basis?

Mr. NEDZI. CIA was a party to it.

Mr. HUNT. But an unwitting party to it.

Mr. NEDZI. Only because you kept them unwitting.

Mr. HUNT. Sir, my superiors in the White House had not seen fit to enlighten the CIA as to the purpose of the items I had requested. It was hardly incumbent on me to do so, if I may say so with all due respect.

Mr. NEDZI. That does not even have the "sources and methods" cover to it. That is a separate issue.

Mr. BOB WILSON. On that point, did you get any idea either from General Cushman or Mr. Colson, or anybody, at that time, as to who called General Cushman to ask for help? In other words, you said it should be easy if the White House called. But do you know who in the White House called?

Mr. HUNT. No; I do not. Mr. Colson said, I believe I testified to this effect, that he would "look into it and see what could be done."

Mr. NEDZI. Go on. You were talking about Mr. Wagner and the list.

Mr. HUNT. Yes, sir.

Mr. Wagner indicated, sir, to the best of my recollection, that he felt that the items were very easy to come by, there was no problem. I gave him my telephone office extension at the White House. I did not want him particularly to call Colson's office, because I was not there, I was on the third floor.

He said, in effect, a technician would call me and we would be meeting at a safe house for that purpose.

Within a very few days I did receive such a call. To the best of my recollection it was Mr. Wagner himself who called, rather than a technician. He gave me a street address on upper Massachusetts Avenue, and an apartment number, I believe, and indicated that I was to be there, again I believe it was the following morning, and a particular time, at which time a technician would see me and take care of my requirements.

Mr. NEDZI. Who suggested that the meeting take place there and not at the CIA?

Mr. HUNT. I was simply told that it would be at a safe house.

Mr. NEDZI. You never requested the use of the "safe house"?

Mr. HUNT. No, sir.

Mr. NEDZI. Are you certain of that, to your recollection?

Mr. HUNT. Positive. Positive.

It would have been, I would say, standard agency practice, in any event, to meet in a safe house rather than at Langley.

Mr. NEDZI. Why would that be the case in the kind of situation you were in, when you had been there before?

Mr. HUNT. Yes, sir. But it was known that I had retired from the Agency. Of course when I went up to see General Cushman I went on a special elevator, so I was not seen by other CIA employees.

Mr. NEDZI. Why couldn't that be done again?

Mr. HUNT. Well, I can only speculate, sir, that the Office of Technical Services, or Technical Services Division, was geographically substantially removed from the seventh floor where General Cushman and Mr. Helms were quartered. I would have been seen by a great many employees if I had entered the building and then gone elsewhere inside the building.

Mr. NEDZI. Did you convey that concern to anybody?

Mr. HUNT. No, sir,

Mr. NEDZI. You are certain?

Mr. HUNT. Positive; yes, sir.

Mr. NEDZI. We will get back to that.

Mr. HUNT. The safe house to which I was directed was a technical services safe house. It had all the material right there. It was in business for that reason.

Mr. NEDZI. Go ahead, sir. You were in the safe house, you got the equipment.

Mr. HUNT. I was given what I thought was a rather ludicrous wig. I was given—

Mr. BOB WILSON. It would be a lot easier to go out and buy one in the drugstore.

Mr. HUNT. One always assumes, at least I always did, that anything CIA provided was the very latest thing. In any case, I was shown how to use a wig. I was given a makeup kit, shown how to use that. I was given a voice-altering device which had to be cast, as a dentist makes a cast, of the upper palate of my mouth. That took a day or so to perform.

I was given some flash identification, including a social security card; memberships in, I think, the Hot Rod Club of America; things of that nature, none of which were traceable or valid, but what we call in the Agency as pocket litter, so there would be something in a wallet. And I was given also a cheap wallet to carry these items in to separate them from any authentic wallet.

Mr. BOB WILSON. Driver's license?

Mr. HUNT. Yes, I believe I was given a New York State driver's license which I was told I should not use in any circumstance, if I could avoid it. It was a nonbackstopped item, in short. And there was, I think, a birth certificate, if I am not mistaken. I had had this type of thing issued to me before.

Mr. BOB WILSON. Do you still have the items?

Mr. HUNT. No.

Mr. NEDZI. What did you do with them?

Mr. HUNT. Then, sir, or later?

Mr. NEDZI. At a later date.

Mr. HUNT. At a later date, I gave some of the items to Mr. James McCord, and I believe I gave part of them to either Mr. Sturgis or to Mr. Barker, just prior to the surreptitious entry at the Watergate on the night of June 16 and 17—of June of last year.

Mr. NEDZI. When you received this material from—from Mr. Wagner?

Mr. HUNT. No, sir, from a technician.

Mr. NEDZI. From a technician.

Mr. HUNT. Yes, sir.

Mr. NEDZI. What happened after that?

Mr. HUNT. I employed it in my interview with Mr. DeMott.

Mr. NEDZI. When?

Mr. BOB WILSON. Did you use a tape recorder in that interview.

Mr. HUNT. Yes, my personal tape recorder.

Mr. NEDZI. When did you meet with Mr. DeMott?

Mr. HUNT. I do not recall, sir. I would make it within, say, a week, or 10 days of the time I received the physical disguise.

Mr. BOB WILSON. Did he laugh at your red wig?

Mr. HUNT. No, sir.

I also received some nonreflecting glasses which look like prescription glasses. I was told by the technician they were quite expensive ground glasses which gave you clear vision actually, but appeared to an unwitting person to be heavy prescription lenses.

Mr. BOB WILSON. You must have been quite a sight.

Mr. NEDZI. Where did you meet Mr. DeMott?

Mr. HUNT. I met him by prearrangement in a motel at the Providence Airport.

Mr. NEDZI. Did you make a report on that interview?

Mr. HUNT. Yes, sir, I did.

Mr. NEDZI. What did you do with the report?

Mr. HUNT. I submitted it to Mr. Colson.

Mr. NEDZI. Along with the tape?

Mr. HUNT. No, I transcribed the tape myself, to the best of my recollection.

Mr. NEDZI. What happened to the tape?

Mr. HUNT. It was not a clandestine taping. The microphone was placed on the table between us, and we spoke into it. I think I simply erased the tape and put it back in my tape recorder once it was transcribed. I transcribed it myself, to the best of my recollection.

Mr. NEDZI. What did you do with the disguise material following the interview?

Mr. HUNT. Retained it, kept it in my White House safe.

Mr. NEDZI. Was anybody else involved in this interview?

Mr. HUNT. Mr. Bennett had acted as the intermediary; that is, be in touch with Mr. DeMott, to say he could expect a call from Ed Warren, I believe that was the pseudonym I used, or Edward J. Hamilton. I cannot remember. He is the one who brought us together before Mr. DeMott and I first made telephone contact with each other.

Mr. DeMott's contact with me was through Mr. Bennett, although I had Mr. DeMott's home and business telephone numbers and could reach him independent of Mr. Bennett.

Mr. NEDZI. Who is Mr. DeMott?

What did you know about Mr. DeMott?

Mr. HUNT. I knew initially—my information came solely from Mr. Bennett who had been, prior to his association with Mullen & Co., been the legislative liaison, I believe, for the Department of Transportation. Mr. DeMott had worked for him, to the best of my recollection, in the Department of Transportation, had then acquired another position with the Federal Government. I think it was disposing of scrap materials around Davisville, R.I., as best I recall, I did not, in my first interview with Mr. DeMott, evince interest in his current employment.

He asked me how Bennett was; I said "Fine," so forth. Pleasantries passed.

He indicated to me he was very anxious to remove himself from the employment he then held in Rhode Island; that it would be very agreeable to him if he could help out in the projected Republican campaign, in some way; to that end he was volunteering some information he thought would be of some benefit to the campaign officials.

He then on tape, I believe, indicated to me his prior background, what his prior connection with the Kennedy family had been; to wit, that he had been initially a summer employee of a hotel in Martha's Vineyard, or in the general Cape Cod area where the Kennedy family was known to summer; he described himself as public relations director for a particular inn where certain members of the Kennedy campaign staff, including Pierre Salinger and others, were quartered.

He said he had become quite familiar with the entire Kennedy group, he had made himself very useful to them, he knew a great deal about their drinking habits, so forth, particularly Mr. Salinger.

He mentioned girls who had been involved with the Kennedy entourage, so forth.

I believe I had a second interview then with Mr. DeMott, only two interviews. I determined and so reported to Mr. Colson that Mr. DeMott had no hard intelligence of any sort that would be useful in any connection whatever.

Mr. DeMott called me from time to time on my home telephone number, on a number I had at the Mullen Co. He would indicate from time to time to Mr. Bennett, according to Mr. Bennett, he was anxious to get back in touch with me. But I felt he was a nonsource and that his previous self-advertisement as being a repository of hard information on the Kennedy camp was valueless, that he had oversold himself.

Mr. ARENDS. How do you analyze this fellow? A publicity seeker, or something?

Mr. HUNT. No; I analyzed him as a man available to whoever appeared to be the winning side, that he had made himself thoroughly available to the Kennedy camp in one campaign, that he had subsequently served, I believe, Mr. Bennett or Senator Wallace Bennett, I was never able to determine just who, and he wanted political credentials, as it were, to advance his career in Government.

Mr. Bennett had indicated to me, I might add parenthetically, he did not want Mr. DeMott ever working for him again, that he had become, in effect, a disposal case, so when Mr. Bennett left the Department of Transportation his connection with him terminated at that time to Mr. Bennett's relief.

Mr. NEDZI. Did Mr. Bennett know, or does he know, that you were in fact the one who interviewed Mr. DeMott?

Mr. HUNT. Oh, yes, sir.

Mr. NEDZI. He knew about the use of an alias?

Mr. HUNT. I cannot tell.

Mr. BOB WILSON. How could you get a phone call at the Mullen Agency for Ed Warren unless he knew you were using an alias?

Mr. HUNT. That is the answer. Obviously he knew. I was thinking of the first interview.

Mr. NEDZI. When did the second interview take place?

Mr. HUNT. I have to retract. I am not sure I did have a second face-to-face interview. I recall taping a long telephone conversation with Mr. DeMott. I am not now certain that I did in fact conduct a second face-to-face interview with Mr. DeMott. I recall taping a long telephone conversation with him.

Mr. BOB WILSON. On that point, you would have recalled getting your disguise material out of the safe, putting on your glasses, so forth, would you not, if you actually had another rendezvous with him?

Mr. HUNT. I would think so. This was of course 2 years ago.

Mr. BOB WILSON. So it was probably a telephone call?

Mr. HUNT. Yes, sir.

Mr. Chairman, I do not want to go into a lot of minutiae that the committee may not be concerned with.

Would you care to have me summarize the type of information I received from Mr. DeMott?

Mr. NEDZI. I don't know that it is pertinent to our inquiry here at this time.

Mr. BOB WILSON. I don't think so. I really think in the brief time we have we need to know more about how often he used the disguise material, things of that type, where he got the camera.

Mr. NEDZI. Would you go to what your activities consisted of following these interviews with Mr. DeMott?

Mr. HUNT. At that juncture Mr. Liddy, in the so-called "Plumbers' " group, the Special Investigations Unit, became aware that I had received technical assistance from the Central Intelligence Agency. He indicated that——

Mr. NEDZI. How did he become aware?

Mr. HUNT. It may have been along these lines, sir: that he indicated to me that as part of his narcotics work he would like to have some sort of false documentation.

I said I had in fact received some false documentation from the Central Intelligence Agency.

He asked me to the best of my recollection, whether or not similar arrangements could be made for him.

I said in view of our work together I saw no obstacle to it. Accordingly I called my contact, technical contact, with the Central Intelligence Agency and asked him if he would be able to provide similar documentation for a White House colleague of mine who had need for these items.

The answer I cannot recall, whether it was immediate or whether I received a return phone call, it was that yes; in fact this could be accomplished.

Accordingly, there came a time when I received a time and a place at which Mr. Liddy would meet with a technician. He received substantially the same material from the technical services people that I had received. He chose the name "George Leonard," I believe the flash documentation was made out in that name.

At about this time the group, the so-called "Plumbers' " group was beginning actively to consider surreptitious entry into the offices of Dr. Ellsberg's psychiatrist in Beverly Hills.

Mr. Liddy and I made a preliminary reconnaissance trip to California, at which time, at least while we were in the area by daylight,

when we were making reconnaissance, I believe we both used the physical disguises that had been issued to us by the CIA.

Mr. NEDZI. You wore the wig?

Mr. HUNT. During the daytime, I believe so, yes, sir. It was very sunny out there.

Mr. BRAY. Did you travel together?

Mr. HUNT. Yes, sir.

Mr. BOB WILSON. What color was his wig?

Mr. HUNT. The wigs were identical, to the best of my recollection.

Mr. BOB WILSON. A couple red heads.

Mr. HUNT. About the color of this table, I would say.

Jack Anderson isn't—Since we knew we were going to be making a preliminary reconnaissance I requested further technical assistance from the Central Intelligence Agency. I asked if a camera concealment device could be made available to me with a high AS, or ASA rating, for indoor photography. I was told in due course it could be made available, and then it was issued in my presence to Mr. Liddy and he was given instructions in its use—this is one concealed in a tobacco pouch.

Mr. NEDZI. Why did you want it?

Mr. HUNT. To photograph the inside of the building in which Dr. Fielding had his professional offices.

Mr. NEDZI. Did you ever do that?

Mr. HUNT. That was done; yes, sir.

Mr. ARENDS. At that time, on that trip?

Mr. HUNT. Yes, sir.

The camera was issued through my offices to Mr. Liddy; I was not given instruction in the use of the camera.

Mr. NEDZI. Who developed the film?

Mr. HUNT. The Central Intelligence Agency.

Mr. NEDZI. Of the inside of the office?

Mr. HUNT. Yes, sir. This was inserted into a tobacco pouch, loaded by the Intelligence Agency—Central Intelligence Agency. The camera itself, I believe, was removed by the technicians and the film removed and processed. In other words, I never saw the camera.

Mr. NEDZI. They loaded it and then they unloaded it?

Mr. HUNT. That is right. They developed the film and made the prints available to us.

Mr. BOB WILSON. Is this the type of pouch used for pipe tobacco?

Mr. HUNT. Yes, sir. It was put in the long way, and the lens, the aperture, was in roughly the middle of the tobacco pouch.

Mr. BOB WILSON. How about the tape recorder?

Mr. HUNT. I received—the tape recorder I had been using for these interviews is one I bought for one of my daughters. It had reached the end of its days. I asked the Technical Services representative whether or not a tape recorder could be made for conducting overt interviews, that is to say, I wanted a 2-microphone tape recorder, either one that would have a yoke jack on it, so it would feed into one track of the tape recorder, or else one that would record stereophonically and one voice would appear on one track and one on another. I was issued such a tape recorder in a concealment device, that is to say, a camera case—a typewriter case. I received that from the Central Intelligence Agency.

When I finished with it I offered to return it to the technician, he said it had already been written off and there was no problem.

Mr. NEDZI. What did you do with the tape recorder, then?

Mr. HUNT. All I used it for was for some transcripts. I believe I recorded my very lengthy phone conversation with Mr. DeMott on it. I do not recall using it in a face-to-face interview situation.

Mr. NEDZI. Where is it?

Mr. HUNT. At my home.

Mr. BOB WILSON. Mr. Hunt, these surreptitious entries and photographing of documents, so forth, overt taping, was this the type of CIA activity you engaged in when you were in Europe on other areas? Were you an expert in that way? Or were you a political expert?

Mr. HUNT. I was usually involved in political action. However, when I was chief of station in Mexico City, also Montevideo, I was responsible for a great deal of [deleted], not as a technician but as chief of a particular series of programs and targets.

Mr. BOB WILSON. Were you thrown into activity here that was a little foreign to your experience in CIA?

Mr. HUNT. Activity where, sir?

Mr. BOB WILSON. Well, do you consider yourself pretty good at disguises, at breaking and entering at night?

Mr. HUNT. No, sir. For CIA, now, I had set up surreptitious entries, yes, sir.

Mr. BOB WILSON. Had you done it yourself? I want to know if you were a second-story man. Are you the kind of guy who goes in at night, breaks and enters?

Mr. HUNT. Oh, no, sir. I have never physically been in the target area myself, yet, have never been.

Mr. BOB WILSON. You went into Ellsberg's office at night?

Mr. HUNT. No, sir.

Mr. WILSON. I thought you testified you had?

Mr. HUNT. No, sir.

Mr. BOB WILSON. Who did? Not Ellsberg's, but I mean the psychiatrist's office.

Mr. HUNT. No, I never went in. It was made clear to me at the onset of that operation that nobody with a White House connection could be anywhere near the target area.

Mr. BOB WILSON. You went to Los Angeles.

Mr. HUNT. That is right. Not for the break-in, for the preliminary reconnaissance, sir.

Mr. BOB WILSON. That is when you took a picture of the outside of the office?

Mr. HUNT. That is correct. Then we came back, brought up our findings, approval was given for the operation.

No, sir, I was never in a foreign embassy, although I played a role in the casing, let me say, of surreptitious entry operations. I had never been in the target area.

Mr. BITTMAN. Mr. Chairman, one second, please.

[At this point witness and his counsel confer.]

Mr. HUNT. Counsel has suggested a means by which I might clear up some apparent confusion.

On the night of actual entry into Dr. Fielding's offices I was many miles away covering Dr. Fielding's house to see whether or not he left

it. I was never physically on the premises at any time. At the time of Watergate entry I was in an adjoining building. I was not present on the premises at either time.

Mr. NEDZI. Did you say "adjoining building"?

Mr. HUNT. Yes. I was in the Watergate Hotel. The entry operation was conducted in the Watergate Office Building, that was a separate building.

Mr. NEDZI. When did the Plumbers' group come into being, and who was a member of it?

Mr. HUNT. Of course, Mr. Chairman, I have read newspaper accounts of when it came into being. I would place it almost coincident with my arrival at the White House, although I understand that it had been created at least in concept at least a month prior to my arrival on the scene.

Mr. NEDZI. By whom?

Mr. HUNT. At this point I knew only that Mr. Krogh was the officer in charge of the unit.

Mr. David Young was his Deputy, Mr. Liddy was there on a full-time basis, and I was there on a part-time basis.

There was a stenographer named Miss Chenow.

Mr. NEDZI. When did you first discuss the matter of breaking into the Ellsberg psychiatrist office?

Mr. BITTMAN. Mr. Chairman, do you know the date of the break-in? I think this would be helpful to Mr. Hunt.

Mr. NEDZI. Our records indicate September 3, 1973.

Mr. BITTMAN. That would help Mr. Hunt try to fix these dates.

Mr. HUNT. I believe our preliminary reconnaissance, the trip Mr. Liddy and I made initially to the area, was about 10 days in advance of the break-in.

If you happened to have a record of that date it would help me to work back from that.

I would say probably about 2 weeks in advance of our initial reconnaissance we had begun discussing in the Plumbers unit the possibility of a surreptitious entry in the office of the psychiatrist.

Mr. BOB WILSON. At the time when the Plumbers unit was discussing the surreptitious entry, what did you hope to gain by going into the psychiatrist's office? Were you going to try to see if Ellsberg had some aberrations that might explain his—

Mr. HUNT. Yes, sir. We had been receiving in the Special Investigations Unit a great deal of material from the Federal Bureau of Investigation, from the Department of Justice, on the Ellsberg case. I believe Dr. Ellsberg had been indicted shortly before.

Mr. Liddy, and I believe others, probably Mr. Krogh, expressed dissatisfaction with the way the indictment had been drawn. There were political considerations. There was some doubt expressed as to whether the man was indeed prosecutable. There was another area of concern, as to whether or not he might become a martyr. There was another school of thought that the health of the man was aberrant mentally, that he was simply not responsible for so outrageous an action.

As a former intelligence officer, I myself wondered what the parameters of his involvement might be. I knew that there had been a delivery. I was told, at least, that there had been a delivery of some

of the materials which had been extracted and Xeroxed by Dr. Ellsberg to the Soviet Embassy. We knew also from FBI reports—

Mr. NEDZI. Where did you get that information? Where did you get the information that the documents had been delivered to the Soviet Embassy?

Mr. HUNT. I believe that was an FBI report, sir.

Mr. BOB WILSON. Someone probably sent them a copy of the New York Times.

Mr. HUNT. Dr. Ellsberg's life had been pretty well covered by the FBI. It was known that he had experimented with hallucinogenic drugs. It was known he had some rather bizarre sexual practices.

Mr. NEDZI. This is from FBI reports?

Mr. HUNT. I am quoting FBI reports, yes. It was known he had at least two mistresses who were foreign nationals, which was certainly unusual in the case of a man who held as high security clearance as he held. One woman I believe was a Swedish national, another was an East Indian, I believe, or Indonesian, I am not sure.

It was known that at the end of one of his tours of duty in Vietnam he had gone to Sweden and spent some time there with this particular paramour.

From my own experience in counterespionage in Europe I know that Sweden is a popular transit point for Soviet agents; it is very easy to get in and out of the country. No one knew just where he had been in all that period of time.

We did, however, know Dr. Ellsberg had been under analysis for a substantial period of time with a particular Los Angeles psychiatrist. This information came to us from the Bureau, which had interviewed this individual.

The suggestion was made, by me or by another party, that it might have been, given Dr. Ellsberg's background—there were certainly some indications of instability, and some indications of psychological dependence on Dr. Fielding, that he might, given the doctor-patient privilege relationship, he might have related to Dr. Fielding any involvements he might have had with foreign nations which might affect the national security.

Mr. BOB WILSON. In other words, he might have—

Mr. HUNT. We wanted to know, of course, whether he was working alone, acting alone, as a loner, or whether he was working at the behest of a foreign power.

We knew, I believe, through an FBI tap that no sooner had he acquired and Xeroxed the last of the materials that later became known as the Pentagon Papers, that he had phoned his psychiatrist, although he had not been in analysis for a period of time, I would say roughly 6 or 8 months, he had phoned Dr. Fielding and said, in effect, "I have done it, this is a great load off my mind."

This indicated to us that Dr. Fielding's records might reflect what had been on his mind.

Mr. NEDZI. Were you involved in requesting the CIA for a profile on Ellsberg?

Mr. HUNT. Yes, sir. I was.

Mr. NEDZI. How did that come about?

Mr. HUNT. It came about because I had been quite familiar with the psychiatric, psychological profile unit that the CIA maintained.

I felt it was appropriate under the circumstances to make such a request to the Agency.

Mr. NEDZI. When was—was it your suggestion that such a request be made to the Agency?

Mr. HUNT. Yes, sir. I was the only one who knew that—

Mr. NEDZI. When was that suggestion made?

Mr. HUNT. Pardon me, sir.

Mr. NEDZI. When was that suggestion made?

Mr. HUNT. To the best of my recollection, sir, it would appear to me logical that I did not initiate that request until after the break-in and the examination of the files in Dr. Fielding's office failed to produce any material on Dr. Ellsberg. So it would have been subsequent to September 3.

Mr. ARENDS. May I ask a question right there?

Mr. NEDZI. Of course.

Mr. ARENDS. As far as Ellsberg was concerned, you found the Doctor's office revealed nothing, no records on Ellsberg at all?

Mr. HUNT. That is what the Agency reported to us, yes. There was absolutely nothing there.

Mr. ARENDS. Is that not peculiar in the Doctor's records?

Mr. HUNT. Well, he had not been an active patient, had not been under analysis for a period of time, I believe at least in excess of 6 months.

Mr. ARENDS. I can go over to my doctor here and go back 5 years later and they have my records. That is why I raise the question.

Mr. HUNT. We were of course quite hopeful that we would find an active file. No active file was found.

Mr. NEDZI. Mr. Hunt, this is in order to help you refresh your memory.

Mr. HUNT. Yes, sir.

Mr. NEDZI. Did you not hold—were you not in attendance at meetings with Dr. Malloy of the CIA?

Mr. HUNT. Very definitely, yes, sir.

Mr. NEDZI. Prior to the break-in?

Mr. HUNT. That I cannot remember, sir, I certainly knew—I know that CIA maintained this service. I knew that we were interested in Dr. Ellsberg's psychological background. I cannot recall whether I introduced Dr. Malloy's name into the awareness of the group in room 16 prior to the break-in, or afterward.

Mr. NEDZI. Let me ask this, then: Are you certain that you were the genesis of the idea to get a profile on Ellsberg?

Mr. HUNT. Yes, sir.

Mr. NEDZI. There is no question about that?

Mr. HUNT. I was the only one who knew, to the best of my knowledge, that the facility—that the capability existed.

Mr. NEDZI. To whom did you convey this knowledge?

Mr. HUNT. I mentioned it to Messrs. Young and Krogh, and certainly to Mr. Liddy.

Mr. NEDZI. Do you know who contacted the CIA in order to make arrangements for this?

Mr. HUNT. I believe that Mr. Young did, sir.

Mr. NEDZI. Our record discloses that this occurred sometime in the latter part of July.

Mr. HUNT. It is entirely possible, yes, sir.

Mr. NEDZI. And that on the 9th of August the first profile was actually submitted to you, or to your group.

Mr. HUNT. That is helpful, sir, to have that information.

I would now reconstruct the events along these lines:

I remember that all of us were disappointed with the initial profile we had received from Dr. Malloy's office. I don't think that he made it up himself; I think this was a service performed by professional men who were working at his instance.

To the best of my recollection it was about a page or page and a half, single-spaced, certainly not the sort of in-depth profile I had seen the Agency produce on Mossadegh, Castro, world leaders, on whom we had much less information than we had presented to the Central Intelligence Agency which comprehended almost the totality of the FBI reports on Dr. Ellsberg. So it was a disappointing report.

So I would now judge that on the basis of the CIA failure to produce what we believed to be a hard, viable, useful profile on Ellsberg, that at that point we accelerated, increased, heightened our interest in obtaining copies of information from Dr. Fielding's files concerning Dr. Ellsberg.

We requested at the same time——

Mr. NEDZI. Do you recall that that was really the reason why you decided that it was desirable to break into Dr. Ellsberg's office?

Mr. HUNT. No, sir. I do not think our interest would have been satisfied with simply the CIA profile. The CIA profile would have, we hoped, indicated to people like Mardian, who was involved in the legal side of preparing the prosecution of Ellsberg, whether or not this man was of sound mind, let's say, whether he could be prosecuted.

Mr. NEDZI. Can you tell us whether you had decided to break in before the 9th of August?

Mr. HUNT. I would have to relate that, sir, to the date on which Mr. Liddy and I made our preliminary reconnaissance.

May I have that date?

Mr. NEDZI. The 25th of August.

Mr. HUNT. I would say that as of the 9th of August absolutely no decision had been reached regarding a break-in.

Mr. NEDZI. So your decision to break in came after——

Mr. HUNT. It was subsequent to the receipt of the first psychological profile.

Mr. NEDZI. After receiving the transcript of the first profile.

Mr. HUNT. Yes, sir.

Mr. BOB WILSON. Mr. Chairman.

In this chronology that you have been detailing, were you reported to have stopped by Denver to see Dita Beard, or did you stop by?

Mr. HUNT. I did at one time, but I don't think it was until much later.

It might have been in March 19—I did at one time, sir—February or March 1972, I guess.

Mr. BOB WILSON. So you used the same disguise.

Did you take your recording machine with you?

Mr. HUNT. No, sir, I did not.

Mr. BOB WILSON. Did you take a camera with you?

Mr. HUNT. No, sir.

Mr. NEDZI. What was the purpose of your visit to Mrs. Beard, or Miss Beard?

Mr. HUNT. My involvement came about in a very abrupt way, sir. I was called by Mr. Colson at noontime one day and asked to go over to his office on an emergency basis.

I was told when I was ushered into his office that there was urgent need for someone to fly out to Denver to see Mrs. Beard, who had just been located in a hospital out there, the Denver Orthopedic or Chiropractic Hospital, the name escapes me at this moment, and I was able to catch the next plane and go out and talk with her.

I had known nothing about Mrs. Beard except what I read in the newspapers, and accounts of a memorandum of an alleged conversation with Mr. Mitchell, there had been columns by Jack Anderson, and so forth. This is the first time her name had been raised in the White House.

I indicated to Mr. Colson that of course I was at the disposal of the White House for whatever purpose they desired.

He then brought into his office a White House aide named Wallace Johnson, who explained to me that they had been trying without much luck to try to determine the validity of a memorandum Mrs. Beard was alleged to have written to an official of her company, I believe, that there were conflicting reports that the FBI had made a technical examination of the document in question; that Mrs. Beard was alleged to have said certain things about the validity, or authenticity of the memorandum.

Then to compound their difficulties Mrs. Beard had dropped out of sight without any explanation, her employers, ITT, had not been able to locate her, they could not understand her conduct, they had finally surfaced this sanitarium in Denver, they thought through her daughter, Elaine Beard, they could authenticate an interviewer to go out and ask certain questions of her, to wit: had she in fact been the authoress of the memorandum in question, (b), why had she behaved as she had, severed her roots in Washington, disappeared for a period of time and emerged in Denver, Colo., under intensive care.

Do you want me to proceed, sir?

Mr. NEDZI. Yes. Go ahead.

Mr. HUNT. I was briefed by Mr. Johnson on these points, somebody checked plane schedules and determined I could be in Denver at, let me say 9 o'clock Denver time that night if I left Dulles at a certain hour.

In the meantime, I was told I should go home and pack, I should use physical disguise, that arrangements would be made for me to meet with Mrs. Beard's daughter, Elaine Beard, at that time an employee of some aspect of the Republican campaign, or the Republican campaign committee.

I packed, put on physical disguise, drove back downtown, met Miss Beard and a companion near the Lincoln—near the Washington Monument, gave her the name I was using, explained to her the purpose of my visit. She said she could call her mother's physician and accredit me to the physician and to her mother through the physician.

I indicated the plane I expected to take from Dulles, indicated I would be arriving in Denver at such-and-such time that night and would go immediately to the hospital from the airport.

Mr. NEDZI. Whom did you represent yourself to be in talking to her?

Mr. HUNT. I just said she could refer me to her mother as being named Edward Warren.

Mr. NEDZI. What kind of representation was made to the other?

Mr. HUNT. That I represented—this is hearsay, sir. I don't know what she said to her mother. She told me at the onset of our initial conversation that she had been given to understand that I represented reputable people in the administration who wanted to be helpful to her mother. She asked me no question more specific than that.

Mr. NEDZI. What was the purpose of the disguise?

Mr. HUNT. I assume so I could not be physically identified at a later time as having been a member of the White House staff.

Mr. NEDZI. What other items did you request from the CIA, Mr. Hunt?

Mr. HUNT. After Mr. Liddy's—after Liddy's and my trip to California, we found that paying by cash produced raised eyebrows at hotels. When we registered at the Beverly Hilton, for example, we were asked for credit cards. We did not have credit cards to produce. It was very difficult to rent cars simply using cash. We had a number of experiences along these lines.

We realized we would need backstopping in depth. Accordingly, there came a time when I asked the Central Intelligence Agency to provide us with two things—credit cards, which were authentic but sterile, and at the same time a sterile telephone which would at least in my case ring in New York, since the documentation that had been provided to me provided for an address on, I believe, West 73d Street. This is a very elementary type of CIA facility.

Mr. NEDZI. What were you doing which would require that?

Mr. HUNT. Well, sir, we were contemplating an entry operation into Dr. Fielding's office. We wanted to be able to go out for that operation as well backstopped as possible.

Mr. NEDZI. You were not planning on participating in it yourself?

Mr. HUNT. No, sir. But I had to be there. I was the planner.

Mr. NEDZI. All right.

Mr. HUNT. You see, the target people—that is to say, the agents who were cooperating with me—did not know the name of the individual until, really, a few minutes before they went in.

Mr. NEDZI. Go ahead, sir. What else was there that you requested?

Mr. HUNT. This quasi-sterile phone that we had in room 16 was not a sterile phone, as I had hoped. It was simply a telephone that the White House communications facility had put in, and the billing was to Miss Chenow's number. I at one time had asked the services of a CIA secretary who was fully familiar with the handling, maintenance, storage, passage of highly classified documents, which Miss Chenow was not. And—

Mr. NEDZI. Were you authorized to hire somebody for that purpose? Or did you expect her to stay on the CIA payroll while she worked for me?

Mr. HUNT. I assumed she would be seconded by the CIA to the White House and an interagency arrangement would be made.

Mr. NEDZI. Were you aware of any other arrangements of that sort by the Agency?

Mr. HUNT. In the instant case, Mr. Chairman, that was not done. I assumed that CIA representatives at the White House, that those were seconded to the National Security Council, and the like, some sort of interagency arrangement is made for their file.

I am not acquainted or familiar with the mechanics of that transaction.

Mr. BOB WILSON. May I ask one question?

Mr. NEDZI. Surely.

Mr. BOB WILSON. The newspaper reported you and General Cushman had been friends for many years. Is that correct?

Mr. HUNT. I would say that is an overstatement, sir. In the early 1950's, then Colonel Cushman and I found ourselves sharing an office at the Central Intelligence Agency. I was then detailed by the Marine Corps to a brief tour of the Agency. We were working for the same supervisor and got to know each other on a first-name basis. I had been a graduate of the Naval Academy and commissioned there—he, too. We had some mutual interests.

I next saw General Cushman at the beginning of the Bay of Pigs affair when he was military aide to the then Vice President, Mr. Nixon.

I saw him again after my retirement from CIA, at which time I attended one or more retirement parties for various dignitaries at the Central Intelligence Agency.

Mr. BOB WILSON. The Bay of Pigs occurred in the Kennedy administration?

Mr. HUNT. That is correct.

Mr. BOB WILSON. And General, or Colonel Cushman——

Mr. HUNT. The fiasco occurred during the Kennedy administration.

Mr. BOB WILSON. Right. But you first saw him during the planning?

Mr. HUNT. Yes, sir.

Mr. BOB WILSON. So Mr. Nixon was knowledgeable about the Bay of Pigs before it occurred?

Mr. HUNT. He was the chief architect of it, yes, sir, according to General Cushman.

He used the word "honcho." He said Mr. Nixon by virtue of his position in the National Security Council is the honcho on the Bay of Pigs. And he said, "The Vice President does not want anything to go wrong; accordingly, Howard, I want to give you my office and home telephone numbers so you can reach me at any time of the night or day should any emergency arise in which you feel that high-level intervention is appropriate."

And I did not see General Cushman again until my interview with him that I have been describing this morning.

Mr. NEDZI. Mr. Hunt, our record discloses a contradiction, and it may be a minor point, but I would like to pin it down as much as I can, as to who actually asked for the "safe house facilities." We have you quoted as saying, "I wouldn't want to be seen walking out of here. I am sure they have got safe facilities downtown."

Mr. HUNT. I——

Mr. NEDZI. I might tell you, that is a literal transcript of what you purportedly said.

Mr. HUNT. I would not challenge it, sir. That is not asking really for "safe house facilities," as I would—I have seen, for example, a newspaper account that I asked for a safe house for myself in Washington. That is not the case. But to use a TSD—

Mr. NEDZI. Let me go back on the statement. "Mr. Hunt: I know so many people out here it is just as well I am not seen. If I am going to put on a physical disguise it is going to stick. I wouldn't want to be seen walking out of here. I am sure they got safe facilities downtown.

"Yes, General Cushman said, they sure as hell did on my last tour of duty here."

Mr. HUNT. I would certainly concede it, sir.

I think my difficulty may have been, sir—

Mr. NEDZI. That is accurate, to your recollection, now?

Mr. HUNT. I think the previous problem, Mr. Chairman, if I may go back for a moment, with regard to "safe house facilities," there was a confusion in my mind between my having made a request, possibly, to the Central Intelligence Agency to set up a safe house for the exclusive use of the Plumbers' group in Washington, as has once been alleged.

Mr. NEDZI. That was not the intent of my question.

Mr. HUNT. No, sir. I appreciate that now.

Mr. NEDZI. Have you had any contacts with Mr. Ehrlichman other than your July 7 meeting?

Mr. HUNT. No, sir.

Mr. NEDZI. You have never talked to him?

Mr. HUNT. At no time, no, sir.

Mr. NEDZI. Were you ever interviewed by Mr. Buchanan?

Mr. HUNT. In 1969 Mr. Colson took me through the basement of the west wing of the White House. At that time he introduced me to Mr. Jeb Stuart Magruder. I was then an employee of the Central Intelligence Agency. We ate at the White House mess. I spent a few moments talking about Mr. Magruder, the only time I had ever met him.

I met a Mr. Lynn Nofziger on that occasion.

Mr. Buchanan I do not recall meeting or having been interviewed by, although it is possible if his office is in that particular suite, Mr. Colson may have opened the door, stuck his neck in it and said, "Pat, I would like you to meet Howard Hunt." I don't believe I ever met Mr. Buchanan.

Mr. NEDZI. Did you attend the White House mess frequently during your period there?

Mr. HUNT. No, sir. I would say half a dozen times.

Mr. NEDZI. What were the occasions? Why were the luncheons set up there?

Mr. HUNT. Mr. Colson explained to me that he would—that while he would like to join me occasionally for lunch, I felt a reciprocal obligation to him, obviously, for luncheons, he explained to me that he was always on call and that it was literally impossible for him to leave the White House at lunchtime long enough to go out and have lunch at a private facility where the service might be slow, therefore

would I do him the kindness of having lunch with him at the White House mess where he would be available.

Mr. NEDZI. This was perhaps half a dozen times?

Mr. HUNT. Over the period of 2 years, right.

Mr. NEDZI. There was no specific reason for the White House luncheon.

Mr. HUNT. There was on one occasion, or two occasions, I think: First when Mr. Colson first broached to me the idea of becoming associated with the White House staff. And I believe there was a second followup luncheon occasion on which I discussed my availability. But I recall no other so-called business purposes.

Mr. NEDZI. You do not recall any interview by Mr. Buchanan?

Mr. HUNT. No, sir.

Mr. NEDZI. Did you ever meet Mr. Haldeman?

Mr. HUNT. No, sir.

Mr. NEDZI. You have never met him at all, had nothing to do with him?

Mr. HUNT. No, sir. Never met him. I have never seen him, to go further.

Mr. NEDZI. What was your reporting channel during your employment by the White House?

Mr. HUNT. I had two. On those assignments given to me by Mr. Colson I reported to Mr. Colson. And the assignments evolving from the so-called Plumbers' unit, I—well, of course the supervisor was Mr. Krogh, the deputy supervisor was Mr. Young.

If I had prepared a memorandum, for example, in my third floor office, carried it downstairs, and only Mr. Liddy was in the office, I would give it to Mr. Liddy and assume it would make its way to Mr. Young and/or Mr. Krogh if deemed necessary. But I do not, for example, report Plumbers' matters to Mr. Colson, or vice versa.

Mr. NEDZI. Did you ever meet with Mr. Dean?

Mr. HUNT. Meet with him, sir? I met with Mr. Dean on only one occasion, within a week or 2, perhaps 3 weeks of the time I joined the White House staff. I was waiting to see Mr. Colson. A young man came in, in shirt sleeves, Mr. Colson's executive secretary leaned over to me and said, "That is John Dean. I would like to introduce you."

I knew Mr. Dean by name as the President's Counsel.

The lady made the introductions, we had no further discussions, he went on in to see Colson, came out, and I then went in to see Colson.

The next time I saw Mr. Dean was the occasion of the President's departure to Red China. He was lifting off from the south lawn in a helicopter, and among the White House staff crowd present was Mr. Dean, whom I found quite by chance standing next to me. We commented that it was a cold blustery day, we certainly wished the President well, and those are the only two conversations to my knowledge I ever had with John Dean.

Mr. NEDZI. Were you ever tasked by anyone during your White House employment outside of Mr. Liddy, Mr. Krogh, and Mr. Colson?

Mr. HUNT. I have no recollection of it, no, sir.

Well, I have already talked about Dita Beard. That, I would believe I could correctly say, I was tasked by Mr. Johnson with performing that mission.

Mr. BOB WILSON. I would like to ask a little more about the Dita Beard matter.

You talked to her?

Mr. HUNT. Yes, in the presence of her physician.

Mr. BOB WILSON. She was in the hospital?

Mr. HUNT. In an intensive care unit, receiving oxygen, and heavily sedated.

Mr. BOB WILSON. Did she give you any information of value?

Mr. HUNT. Yes; under very difficult circumstances. This woman was receiving oxygen, under heavy sedation. Her physician stayed, oh, 8 or 10 feet away, his eyes constantly on certain gauges, so forth. I conducted the interview piecemeal, that is, the physician would say, "That is all for now, Mr. Hunt."

Mr. NEDZI. Did he say, "Mr. Hunt"?

Mr. HUNT. No, sir. "That is all, sir," or Mr. Warren," or whatever my name was. We would then let her rest a while.

He would then drive me to a telephone where I would call Washington to report what transpired up to this point.

Mr. BOB WILSON. To whom were you reporting?

Mr. HUNT. To Mr. Colson.

Mr. BOB WILSON. Were you there just one evening?

Mr. HUNT. Just one night, yes, sir. I was in Denver one night, and saw her one more time the following morning before I returned to Washington.

Mr. BOB WILSON. Mr. Chairman, so far we have seen three uses of this disguise—when you interviewed DeMott, when you went out to Los Angeles, and when you went to Denver.

Each time you took your disguise and would keep it in your safe?

Mr. HUNT. Yes.

Mr. BOB WILSON. Were there any other instances when you used the disguise, other than the three we have mentioned?

Mr. HUNT. I have no recollection of any, no, sir.

Mr. BOB WILSON. It should have been sort of an experience each time you wore it, I imagine.

Mr. HUNT. A disagreeable experience. The wig was very hot, and it was a weird-looking thing, anyway.

No, sir, to the best of my recollection I have no—No, sir, to the best of my recollection, those are the only times on which I used such disguise.

Mr. BOB WILSON. One other question, Mr. Chairman.

On another subject, you know James McCord. When did you first meet James McCord?

Mr. HUNT. I was introduced to him by Mr. Gordon Liddy at a time I believe no earlier than late March or early April, mid-April—I can not be specific about this—of 1972, last year.

Mr. BOB WILSON. You did not know him—

[Mr. Bittman and Mr. Hunt confer.]

Mr. HUNT. I did not know him in CIA, no, sir.

I beg your pardon.

Mr. BOB WILSON. That is all right. I was trying to see if there had been a prior arrangement, and that is the reason the two of you got together.

Mr. HUNT. No, sir.

Mr. BOB WILSON. Did he, to your knowledge, participate in the Bay of Pigs operation?

Mr. HUNT. No, sir. Not to my knowledge.

Again, there was compartmentalization. He could have been performing a security function. He was a desk officer, I was a field officer. He spent most of his career in Washington, I spent most of mine abroad.

Mr. NEDZI. Mr. Hunt, let us go back now and ask you what the responses of the agency were to your various requests.

In the first instance, obviously, there was no problem, you were furnished with the disguise, then the tape recorder and the camera, not to you but to Mr. Liddy.

Mr. HUNT. The film was developed.

Mr. NEDZI. Was there any indication on anybody's part of concern about providing these materials to you?

Mr. HUNT. Up to that point, no, sir.

I would date agency reluctance to continue providing technical support from the time that our—that the photographs Mr. Liddy and I had taken on the west coast were developed and turned over to us by a representative of the Technical Services Division.

Mr. NEDZI. That was on approximately the 26th of August.

Mr. HUNT. It would have been the same day we returned from Los Angeles, because I had called from Los Angeles to ask this technician to meet us at the airport to develop the film. He took 35 millimeter film that I had shot, using my personal camera for external photographs of the area, for the external casing, whereas the internal photographs had been taken with the CIA-supplied tobacco pouch camera.

Mr. NEDZI. When did they furnish you with the prints?

Mr. HUNT. That afternoon.

Mr. NEDZI. How did they express concern about furnishing you assistance?

Mr. HUNT. That came subsequently, sir. As I mentioned before, the experience Mr. Liddy and I had had during our preliminary reconnaissance at the time we took these photographs indicated to us if we were actually going to get into an entry operation we needed better backstopping, in depth, that we did not then have.

It was at that point, I believe, I told one of the technical services people, or I may have called Karl Wagner and indicated Mr. Liddy and I would both like to have backstopping in depth, that is to say, valid credit cards that could be used for hotel bills, to charge Avis and Hertz cars for operational purposes; that we would like to have a telephone number that could be used for credit check, bank references, that sort of thing. These were not forthcoming.

Should I repeat that, sir?

Mr. NEDZI. No, that is all right. I heard what you said.

Mr. HUNT. I was also informed by Karl Wagner that the CIA would not furnish a secretary. He said, "We have some people over here that do not like you, Howard. And let me put it this way: that we are not going to help you any more."

Mr. NEDZI. What did you do about that?

Mr. HUNT. I reported it to Mr. Krogh.

Mr. NEDZI. Did he indicate anything was going to be done about it?

Mr. HUNT. He indicated that nothing was going to be done about it.

Mr. NEDZI. Shortly thereafter, I take it, the break-in occurred?

Mr. HUNT. Yes, sir. Approval was given and the break-in took place—the entry.

Mr. NEDZI. And you received nothing of worth in the break-in?

Mr. HUNT. No, sir. Photographs were taken by the agents who actually made the entry of the file cabinets that had been opened by force.

Mr. NEDZI. Who were the agents who made the entry?

Mr. HUNT. Mr. Bernard Barker, Mr. Rolando Martinez, and Mr. Felipe DeDiego.

Mr. NEDZI. There were three men who entered?

Mr. HUNT. That is right.

Mr. NEDZI. You and Mr. Liddy were on the outside?

Mr. HUNT. I was at some distance away—during most of the entry operation. Mr. Liddy was hard by in a car providing mobile surveillance against police, against untoward incidents. We were in touch with the team inside by walkie-talkie.

Mr. NEDZI. These three were the same who entered the Watergate?

Mr. HUNT. Two of the three were.

Mr. NEDZI. DeDiego was not in on the Watergate?

Mr. HUNT. No. He was a potential member of the Watergate team but was not used.

Mr. NEDZI. Were any of these individuals, including yourself and Mr. Liddy involved in any other break-in outside of the Watergate and the psychiatrist's office?

Mr. HUNT. The two Watergate entries and the Ellsberg entry, and that was all.

Mr. NEDZI. Those were the only ones?

Mr. HUNT. Yes, sir.

Mr. NEDZI. Following the break-in in September, have you made any other contacts with any other agency?

Mr. HUNT. I am sorry, sir, September?

Mr. NEDZI. September 3.

Mr. HUNT. Have I had contact with the CIA, or made requests of them?

Mr. NEDZI. Yes. Yes.

I have made no requests of the CIA since that time. I have had some social contact with old friends from the Agency, but that is all.

Mr. NEDZI. Did you contact the Agency in October 1971 and request information on a 1954 French case related to leakage of documents?

Mr. HUNT. Yes. Yes, sir, I did.

What was that month, sir?

Mr. NEDZI. October.

Mr. HUNT. Of—

Mr. NEDZI. 1971.

Mr. HUNT. 1971. Yes, sir, I did. I did make such a request.

Mr. NEDZI. How did that request come about?

Mr. HUNT. It related to the—

Mr. NEDZI. We will be taking a break in 15 minutes to answer a roll-call.

Mr. HUNT. It related to the Pentagon Papers leaks. I recalled that there had been a similar type of scandal, if you will, in France, at which time a member of the government had leaked certain compromis-

ing documents concerning the French negotiating posture vis-a-vis the Viet Minh, toward the end of the French withdrawal from French Indochina.

These had had a critical effect upon the French posture and its ability to extricate itself from Indochina. I recall only the vaguest outlines of the case. I remember it was called *L'Affaire des Fuites*—affair of the leaks.

I called an old friend in CIA who then had the French desk, and asked if he could give me background information, dates, names of the principals, what evolved, and asked him to send to my White House office, which he did, through the CIA office in the White House facility.

Mr. NEDZI. The contact was made as a member of the White House staff?

Mr. HUNT. Yes, sir.

Mr. NEDZI. Upon retirement were you ever given the understanding that you may be called upon in the future to provide certain services for the Agency?

Mr. HUNT. No, sir.

Mr. NEDZI. What form did your contact with your former colleagues take?

Mr. HUNT. At what period of time, sir?

Mr. NEDZI. Following your retirement.

Mr. HUNT. I saw them very infrequently. I was located downtown, I would see them occasionally on Pennsylvania Avenue, walking into restaurants or stores. The clandestine life does not engender a great many close friendships. The Agency even discouraged sending Christmas cards among its members.

I did not pursue former contacts actively. I was very busy with work of my own.

Mr. NEDZI. Did you maintain any social contacts with any former Agency employees?

Mr. HUNT. Yes; a previous supervisor of mine and I used to play tennis every Sunday morning. His name was [deleted]. We had a social relationship, belonged to the same country club and played tennis on Sunday mornings.

Mr. NEDZI. Were there any regulations or were there any guidelines relative to retired—relative to the conduct of retired employees vis-a-vis their former colleagues still members of the Agency?

Mr. HUNT. None of which I am aware, sir.

Let me put it this way: There was always a standing regulation—I don't know if that is even the word—one CIA agent or employee does not recognize another one in unfamiliar territory. For example, if I were to be traveling in Paris with my wife and saw a friend of 30 years standing from the Agency walking toward me we would cut each other dead. That would, I assume, hold over into civilian life, and I would have abided by that.

That circumstance did not occur.

Mr. NEDZI. At the time you were hired was there any kind of suggestion that your duties would involve continuing contact with the CIA?

Mr. HUNT. At the time I was hired by the CIA?

Mr. NEDZI. By the White House.

Mr. HUNT. Oh, no, sir.

Mr. NEDZI. We will take a break right now, which should be 10 or 15 minutes.

[At this point a recess was taken.]

Mr. NEDZI. Mr. Hunt, before I excused myself to vote we had inquired about the contact with the Agency for the purpose of getting material on the 1954 French case.

Mr. HUNT. Yes, sir.

Mr. NEDZI. What other projects were you working on at approximately that time?

Mr. HUNT. At the White House?

Mr. NEDZI. Yes.

Mr. HUNT. They were the Vietnam papers, the overall leak problems in the White House, of classified information; in narcotics intelligence activity.

Also, I don't know whether it was as early as this—it had been suggested to me by Mr. Charles Colson as a result of any extensive research into State Department cables covering the period of the early involvement in the Vietnam war, up through the time of the assassination, that perhaps cables could be reconstructed which would clearly point to Washington, the Kennedy administration, as having in effect hoped for or brought about the assassination of the former Vietnamese Premier.

Mr. NEDZI. At the time you were hired was it the understanding that you would be involved in illegal, unlawful activities?

Mr. HUNT. No, sir.

Mr. NEDZI. Did you rebel at all at the suggestion that you do something illegal?

Mr. HUNT. That I do something illegal?

Mr. NEDZI. Yes.

Mr. HUNT. Let me say this: I had spent most of my adult life abroad involved in activities that were quite clearly illegal under U.S. law, but which were not only encouraged by our Government abroad, which we trained people extensively for it, paid large sums of money, for just the type of expertise that I had acquired and was now asked in some small respects to exercise in behalf of the executive branch of the Government.

I had gone into the Armed Services in 1940, came out in 1946. I spent all of my adult life taking orders from much lower echelons than the White House. To take a typical example, when Mr. Krogh approved an entry operation into Dr. Fielding's premises in Beverley Hills, it would never occur to me to question the appropriateness of such order, or authorization.

When we go further into, for example, the Watergate entry operations, I had credible reason to believe the Attorney General of the United States had authorized this and other operations while he was Attorney General of the United States.

Mr. NEDZI. Was this discussed?

Mr. HUNT. What, sir?

Mr. NEDZI. The point you make that this was approved by the Attorney General.

Mr. HUNT. Mr. Liddy told me, yes, sir.

Mr. NEDZI. That this was approved by the Attorney General?

Mr. HUNT. Yes, sir. That is, the Watergate operation. Yes.

Mr. NEDZI. Yes.

Mr. HUNT. Yes, sir.

Let me go back a moment, if I may, sir.

When the first suggestion was made, whoever made the suggestion, that an entry operation be performed into the premises of Dr. Fielding, I believe it was at that time that I raised the question, can not the FBI procure this type of material, perform this operation.

Mr. Liddy indicated to me that it could not because during the past 5 or 6 years under the aegis of J. Edgar Hoover the entry teams that at one time flourished, at least operated for the FBI in internal matters, had been disbanded, and the men with special expertise had been dispatched to the four corners of the United States, and the FBI no longer had the professional capability.

I raised then the question of whether the Secret Service might not be the body competent to perform an entry operation.

Mr. Liddy informed me it was the opinion the White House did not have sufficient confidence in the Secret Service in order to commission them, charter them, to perform so sensitive an operation; therefore it fell to us.

Mr. NEDZI. What about the doctoring of cables? Was that not a questionable matter?

Mr. HUNT. It was questionable, but certainly not illegal, sir.

Mr. NEDZI. We might go and look at some lawbooks, and debate that.

Mr. HUNT. You would have an advantage of me, Mr. Chairman. I am not an attorney.

Mr. Colson, however, was an attorney, he was my superior, he was Special Counsel to the President, and when he suggested that this be done I set about to do it, half-heartedly, because I pointed out to him that nothing of this sort would stand muster technically unless it was a perfect reproduction. I had available a razorblade, a pot of glue, and a Xerox machine, certainly insufficient to produce a credible duplicate, or even a serious cable that would be accepted.

Mr. NEDZI. Did you develop any expertise along these lines while in the Agency?

Mr. HUNT. Not technical expertise. I certainly developed the expertise of forging cables, letters, that sort of thing. Misinformation operation, yes.

Mr. NEDZI. As far as the information was concerned, but not the actual manipulation of the document?

Mr. HUNT. Oh, no. That is what I meant by "technical." Determining the text of such a thing was my field.

Mr. NEDZI. What were you doing with respect to the overall leaks? You mentioned that that in addition to the Pentagon Papers was one of your general areas of concern at that time.

Mr. HUNT. Yes, sir. If a leak initially were determined to have occurred in the Department of State the State Department Security Officer would be advised.

I think there has been subsequent testimony, or I have read, circuitously at least, to the effect that CIA polygraph personnel conducted polygraph interviews with selected State Department people who were under suspicion of one sort or another.

Mr. NEDZI. How would you be aware that a leak had occurred in a given agency?

Mr. HUNT. By comparison of documents. On the SALT talks, for example, there were only a limited number of copies. It was known, for example, in the case of one leak that an individual who—and I can not recall names at this point, sir, but I am giving you an example—an individual, a rather relatively junior advisor on SALT matters, was a friend of a correspondent, and that correspondent produced for his journal practically replicas of the classified documents.

Mr. NEDZI. Do you recall the correspondent?

Mr. HUNT. William Beecher. I do not recall the name of the State Department individual.

In that case the State Department Security Officer, or whoever was going to handle the affair, would call in the individual and interview him, either—

Mr. NEDZI. Was it you who brought this to the attention of the State Department?

Mr. HUNT. Oh, no, sir. No, sir.

Mr. NEDZI. Who did?

Mr. HUNT. We would meet occasionally on these things. If I happened to be in room 16 and David Young came in saying "There has been another leak in the paper today. Read page 15 of the New York Times. It looks as if it came from the Department of Defense," someone would call Buzhardt or someone in the Department of Defense, and there would be a conversation about it, that is, who was likely the person responsible, how should we handle it.

That is the sort of thing I was involved in.

Mr. NEDZI. You were hardly more than a clipping service, then. It just seems to me somebody in the Defense Department should have been aware there was a leak. They have people who read the papers. I am trying to figure out in my own mind just what you were doing that was of use, at this point.

Mr. HUNT. I suppose a qualitative assessment would have to be levied by my superior. Mr. Colson.

Mr. NEDZI. Can you think of any contribution that was made in this regard?

Mr. HUNT. I made one very early contribution, I believe. This was at a time when the FBI representative at one of our leaks meetings said the FBI would not interview personnel of other agencies by polygraph, and I suggested that CIA had perhaps the finest operators in the world, and why not employ them. And I believe that suggestion was acted upon in due course.

I believe it was criticized subsequently.

Nevertheless, that is a contribution I made because of my particular knowledge.

Mr. NEDZI. But with respect to the day-to-day operation on the leaks, what was your organization or group doing?

Mr. HUNT. We were encouraging the Departments directly involved to pursue matters vigorously. We were acting—I don't want to bring myself into this in an overblown fashion. But if it was noticed, for example, that the suspect individual at stake was still on duty in a sensitive post, then a memorandum would be passed along up the line to the White House notifying someone superior to Mr. Krogh that this

individual still had not been dealt with and that he certainly should be gotten out of that sensitive position without any loss of speed.

Mr. NEDZI. Was it your responsibility to determine whether in fact that individual was the individual involved?

Mr. HUNT. No, sir. These were—it was not a personal responsibility. These were consensus decisions, if you will, or recommendations.

There was a vast reluctance on the part of the bureaucracy of the executive Agencies—I would cite the Department of Defense, the Department of State—to deal with their own internal problems, without pressure from the executive branch.

Mr. NEDZI. Were you involved in exerting that pressure, personally, at all?

Mr. HUNT. No, sir, I was not.

Mr. NEDZI. Who was?

Mr. HUNT. I think Mr. Malek.

Mr. NEDZI. Anyone else?

Mr. HUNT. Not to my personal knowledge, no.

Mr. NEDZI. What was Mr. Malek's relationship to the Plumbers' unit?

Mr. HUNT. I saw memorandums addressed to Mr. Malek from Mr. Young, or Mr. Krogh, suggesting a certain line of action be taken.

In case of one State Department employee, for example, it was suggested Mr. Malek either call or visit the Secretary of State and demand a resolution of this particular problem. I never met Mr. Malek myself.

Mr. NEDZI. Can you recall what you were doing with respect to narcotics at that time?

Mr. HUNT. Yes. I was in touch with Colonel Conein at this time, whom I had interviewed with regard to the demise of Premier Diem.

Also, by virtue of his many years in Indochina—he and I were in the Far East together, as OSS Officers. He spoke native French, had been a member of the Foreign Legion, had made his CIA career in Vietnam, and was now retired.

I was discussing with him and another member of the Narcotics Control Unit in the White House, Mr. Walter Minnich (?), methods of stopping the flow of narcotics from the regional warlords, as it were, of Vietnam into the channels of international drug traffic.

Mr. NEDZI. What was the thrust of Conein's report to you?

Mr. HUNT. It was ambiguous. It was that he——

Mr. NEDZI. Did you find it useful at all?

Mr. HUNT. Taken in context with the lacunae I found in the Department of State chronological cable files, I found he had considerable interest, it was stimulated.

I am not quite sure of the sequence of events. But just prior to the coup that was actively encouraged by the U.S. Government against Premier Diem evidently a covert inquiry was made to the Embassy by Conein, and the thrust of that was whether or not Colonel Diem and his brother could receive sanctuary, safe haven, in either the Embassy or the United States.

There is some substantiation for this in the cable traffic that still exists in the chronological files of the Department of State.

Colonel Conein, however, told me that there had been a standdown order on all American aircraft flying out of Saigon, which in effect

would have trapped and imprisoned Diem and his brothers in Saigon, and in fact did. There was a plane at the airport which could have easily taken them out of the area where their lives were threatened.

Again, in the cable traffic of the Department of State I found such a standdown order had been given.

There was a large aircraft capable of flying at least to Taiwan or some fairly neutral area where these men could have been given safe haven. After all, these people had been loyal allies to the United States for a good many years. Yet when I went back further into the State Department files I could find nothing that had ordered Ambassador Lodge specifically to deny them safe haven.

These were the areas we were trying to piece together. So when I went to Mr. Colson finally with, in effect, a rather patchwork pattern it was then he said to me, "I think you can do better than that," or words to that effect. "Can't you make something better out of this?"

And it was then I set about to produce cables that, had they been technically acceptable cables, would have seemed to have provided the answer to the assignation of the brothers.

Mr. NEDZI. How did that phase terminate?

Mr. HUNT. It terminated in this fashion, sir: I produced for Mr. Colson two cables whose text I was satisfied with. They were simulacra of cables that might well have been sent from Washington. However, I knew certainly the merest technical examination under even a high-powered reading glass would reveal that different typefaces had been used, and so forth.

I told Mr. Colson this. He said to keep the material in my White House safe.

In due course I got a call from William Lambert, a reporter for Life, and was authorized by Colson to show him this and other cables. Mr. Lambert was quite delighted to see these cables, but wanted Xeroxed copies of them to take to his editors; and of course that could not be done, because the fraud would have been very quickly discovered.

However, he was authorized by Mr. Colson indirectly, by me directly, that is, he was authorized by Mr. Colson through me, although he did not know it was Mr. Colson who was making the authorization. that he could make copies in longhand of the contents of the cables, which he did.

He pressed for a number of weeks for access to these cables. I think he called Colson's office a number of times, called me and visited me a number of times when he was in Washington, for copies of the cables. And I said it was impossible, and eventually the affair just died away.

Mr. NEDZI. What was the time period involved?

Mr. HUNT. I would say, sir, from perhaps late or mid-September 1971 through February or March 1972 that all of this was going on, that is, my creation of the cables, Lambert's interest, his frustration at not being able to get copies he could photograph for his magazine, so forth.

Mr. NEDZI. Were there any other projects you were working on within this time frame?

Mr. HUNT. Of course I became associated with Mr. Liddy after he left the White House proper.

Counsel has suggested—I should have mentioned earlier—I was at this time only working part time for the White House. I could only handle a limited number of things. My timesheets would reflect I put in Saturdays, Sundays, evenings after 5 o'clock or 6 o'clock.

Mr. NEDZI. Were any other projects of any moment discussed during this time period? Did you travel at all?

Mr. HUNT. Yes, sir. My travel was mostly in connection with the Republican Convention, but that was again at the time that I moved more or less out of 16 and into this new project that the Attorney General was heading.

Mr. NEDZI. When was that transition?

Mr. HUNT. It was first discussed with me by Mr. Liddy in, I believe December 1971. I ceased billing the White House for services of any sort after the 29th of March 1972.

Mr. NEDZI. Was it your understanding that the so-called Plumbers' group was just going to be disbanded?

Mr. HUNT. No, sir. They still had Bud Krogh, David Young; as far as I knew they had other personnel they could pick up.

Mr. NEDZI. Do you know who the other personnel were?

Mr. HUNT. No.

Mr. NEDZI. Was Malek part of it, do you know?

Mr. HUNT. No.

Mr. NEDZI. You don't know, or he wasn't?

Mr. HUNT. I assume from Mr. Malek's very elevated position in the administration that he would not have been a member of the Plumbers' group, sir. That is inferential on my part.

Mr. NEDZI. What happened in December 1971, then, which suggested to you that transition was taking place?

Mr. HUNT. When Mr. Liddy approached me one afternoon and indicated he had just had an interview with John Dean, who was at that time Counsel to the President, he indicated to me Mr. Dean has told him that a massive intelligence collection effort was about to be made, or was contemplated for the ensuing year; that the Attorney General was in charge of it—he did not say the "Attorney General," he said the "A.G." was in charge of it.

He said: "A preliminary discussion has been made. Mr. Dean has discussed it with Mr. Mitchell, and Mr. Mitchell wants me to head it up. Would you be interested in being associated with it?"

I said, "Certainly."

He said, "I have also heard from Mr. Dean that they have a fund of half a million dollars for openers. That ought to go a long way toward setting up a viable organization."

He said, "This will have to be checked out with Mr. Krogh," who was Mr. Liddy's superior.

He said, "I understand this will be done in a matter of days."

Apparently when that formality was taken care of, Mr. Liddy began the process of withdrawing from the White House staff proper and moving over into the Committee for the Re-Election of the President, where, as he told me, he was to hold down two jobs—first, the covert job, as it were, that of General Counsel to the Committee for the Re-Election of the President; and the second, but more important, job, heading up the Intelligence and Counterintelligence effort for the administration during the preelection period in the United States.

Mr. NEDZI. How were you to be involved in that?

Mr. HUNT. I was to be involved as an assistant to him in this activity.

Mr. NEDZI. At what remuneration?

Mr. HUNT. At no remuneration. No remuneration was specified.

Mr. NEDZI. You indicated to him at that time that you were agreeable to make this switch?

Mr. HUNT. I indicated to him, as I recall, that if all worked out well I would indeed be willing to make such a switch.

As for remuneration, I said I would like to have at least replacement income for whatever days I am unable to work either here at the White House or at the Mullen Co., and he said "That is no problem."

Then we set about devising a budget. He indicated the areas he told me the Attorney General was interested in.

Mr. NEDZI. What were they?

Mr. HUNT. There was a rather large area of electronic surveillance that accounted for a huge portion of the budget.

There were support areas—travel, procurement of items, the like, rent of hotel rooms, the hiring—at that time we thought San Diego was going to be the site of the Republican Convention—the hiring or facilitating of the presence, as sort of an interposing group, of a large number of Bay of Pigs veterans who were located in the southern California area; some photography missions were contemplated.

Mr. NEDZI. Who was assigned the responsibility of recruitment?

Mr. HUNT. Of what, sir?

Mr. NEDZI. Responsibility of recruiting.

Mr. HUNT. At that juncture nobody was assigned anything, until we had a final budget. A lot of things were chopped from the budget.

As it eventuated, Mr. Barker did some recruiting work in the Miami area, because by then it was clear the Republican Convention would not be held in San Diego.

Mr. Barker would have been the individual most closely linked with the assembly of the Bay of Pigs veterans, to whom I would have entrusted that task.

Mr. NEDZI. What was chopped from the plans?

Mr. HUNT. It is very difficult for me to be precise about this, Mr. Chairman. Let me describe, if I may, the process by which the budget was drawn up, and a sort of TO was developed.

Mr. Liddy would say, "The Attorney General is particularly interested in electronics surveillance. To do a job for that we will need a plane for aerial intercept. A plane costs, say, \$250,000," something like that. So that is electronics; "for buses to get brigade people to help out at the San Diego Convention we have to figure on \$25 a day for replacement income for them, plus costs of so much, we will want 400 or 500 of these men, this is a figure."

Mr. NEDZI. What would they be doing?

Mr. HUNT. When Mr. Liddy and I had gone out to survey the San Diego Convention site we, as did other members of the Committee for Re-Election of the President, and the White House Staff after—at that time they were practically indistinguishable; Mr. Malek has a White House past. Mr. Magruder, Mr. Liddy has a White House past, even though we were at CREEP.

It was a situation where you did not know really where one individual was.

These surveys of the San Diego site had been made both by White House personnel and people officially assigned to the staff of CREEP.

Mr. Liddy and myself felt that the isolation of the convention headquarters made it absolutely indefensible unless the administration decided to ring it with bayonets a la Kent State, and nobody wanted anything like that to occur at this time.

It was a lousy choice of a convention site. We are already in possession of brochures, underground newspapers, in which radical plans for disruption, if not the destruction of the convention had been widely circulated, in the most violent terms. We anticipated attendance by west coast radicals with upwards of 200,000, say a top of 250,000 or 300,000. Anything short of the National Guard around this area would have been hopeless.

The administration at that time seemed bent upon San Diego as a convention site. Liddy suggested perhaps we could get civilian assistance from well-disposed west coast Cuban-Americans from the Bay of Pigs. That is an area I said I would look into——

Mr. NEDZI. You actually expected to recruit 400 of them?

Mr. HUNT. Yes, sir, including sons, relatives, so forth. I don't think that was an overoptimistic estimate.

Mr. NEDZI. Is there any estimate as to how many there are actually?

Mr. HUNT. The printouts from the brigade headquarters in Miami. They were at one time in my safe in the White House. I don't know——

Mr. NEDZI. How did you get those printouts?

Mr. HUNT. I just asked them.

Mr. NEDZI. Asked who?

Mr. HUNT. Asked Mr. Barker to approach the head of the veterans association——

Mr. NEDZI. Oh, the veterans association in Miami?

Mr. HUNT. In Miami, yes, sir.

Mr. NEDZI. Did you do any traveling during this time?

Mr. HUNT. Quite a bit, yes, sir.

Mr. NEDZI. To where?

Mr. HUNT. We traveled—let me go back a moment: Mr. Liddy indicated soon after he had had his initial—again, this is hearsay—his alleged initial meeting, with Messrs. Dean, Mitchell and Magruder, that until a final budget was approved funds would be made available for developmental purposes and not charged against any eventual budget approved by the Attorney General.

So we did have money to go to San Diego, for example, to make an on-the-spot appraisal.

Mr. NEDZI. By "approved by the Attorney General," you mean this was considered a Government operation, or a Committee To Re-Elect the President operation?

Mr. HUNT. It was very difficult to distinguish at that point, Mr. Chairman, I say in all deference. When the Attorney General's name was invoked to me by Mr. Liddy, who referred to him as the "A.G.," "The A.G. said there will be funds for this," at a time when the Attorney General is occupying his position in the Department of Justice, I am assuming for all intents and purposes this is an official activity.

Mr. NEDZI. Does it appear to you to be a proper expenditure of Government funds, to protect a party campaign site?

Mr. HUNT. I would not argue that point, sir, simply from my own unfamiliarity.

I took part in a number of protective activities when our Presidents and Vice Presidents traveled abroad, and I know we went to the most extreme measures for crowd-control—bribery of police—to assure safe conduct for our high officials wherever they went.

To me, it was not a matter that troubled me. And I had read the inflammatory literature day after day being put out by the counter-government, SDA, New Left, Weathermen, so on.

Mr. NEDZI. When were you placed on the payroll of the Committee To Re-Elect the President?

Mr. HUNT. I never was.

Mr. NEDZI. And you ceased being paid by the White House in March, did you say?

Mr. HUNT. I ceased billing the White House for services by the end of March, yes, sir.

Mr. NEDZI. Who was paying you from March?

Mr. HUNT. I was being paid by Mullen and Co. for the days I worked there, and when I would travel with Mr. Liddy I would expect—I would get from him an equivalent amount of money for what I would have lost had I been working at the White House that day.

Mr. NEDZI. Mr. Liddy was not paying you out of his pocket, was he?

Mr. HUNT. No, sir. He was paying me from developmental funds that I mentioned earlier.

Mr. NEDZI. Where did the developmental funds come from?

Mr. HUNT. I don't know, sir. He told me until the budget was approved by the Attorney General there would be developmental funds available. That is all I knew.

The money he gave me for plane tickets, for hotel rooms, \$100 for a day I spent at his disposal, these were developmental funds. I did not inquire.

Mr. NEDZI. Did you assume they were governmental funds?

Mr. HUNT. I would go back, sir, to the Ellsberg entry and the funds for that, to explain my view of the later funds, if I may.

Mr. NEDZI. Certainly.

Mr. HUNT. On the afternoon that we left for California to effect the entry on the Ellsberg premises, Mr. Liddy was given an envelope by Mr. Krogh which I later determined contained cash funds to cover the expenses of the undertaking. I assumed that the funds Mr. Liddy was referring to as "developmental funds" came to him via the same channel; whatever that might be.

Mr. NEDZI. What did you think it was, Mr. Hunt? Or did you not think?

Mr. HUNT. I did not really think, sir, because I have dealt with confidential funds, unvouchered funds, as a courier, paymaster, if you will, for 20 years of my life—going back to the OSS, 23 years. Confidential funds have been a way of life for me most of my adult life.

There are a number of possibilities. CIA has unvouchered funds. At one time I assumed, and might well be wrong, that the White House itself, if you will, the Office of the President, has a confidential fund.

Mr. NEDZI. Governmental fund?

Mr. HUNT. I have always assumed so. I assumed this over the years. I think the biographies of various Presidents I have read have mentioned special funds the President was authorized to distribute.

It was not a subject I dwelt on, because it was not a subject that bothered me. There were funds available, they were clean funds——

Mr. NEDZI. You assumed that?

Mr. HUNT. Yes, sir. I assumed it by virtue of years, my years, in the clandestine services.

Mr. NEDZI. Your total income, then, from these operations was approximately what it was serving as a consultant to the White House. Is that fair statement?

Mr. HUNT. Yes, sir. Yes, sir.

Mr. NEDZI. When was——

Mr. HUNT. In addition to expenses, sir, of course.

Mr. NEDZI. Yes.

When was the matter of the Watergate entry first raised with you?

Mr. HUNT. I would like to be as specific as I can about this, because there has been a great deal of testimony about this.

To the best of my recollection the Watergate was not a specific target in the early stages of planning for the Gemstone operation.

Mr. NEDZI. When did the planning first begin? What are the early stages?

Mr. HUNT. I would say December 1971.

Mr. Mitchell, I was told, wanted an electronic capability. Nobody knew what that would be at that time. I do not believe it was until late March, or possibly early April, that I became aware—and this is at about the time Mr. McCord was introduced to me by Mr. Liddy—that the Democratic National Committee was to be a target.

Mr. NEDZI. Were any other targets mentioned prior to this time?

Mr. HUNT. There was the target of Senator George McGovern's office, yes, sir.

Mr. NEDZI. Any other?

Mr. HUNT. The suite in the Fountainbleau, either of Mr. O'Brien or Senator McGovern, I cannot remember which. It just never happened, we never got even to the planning stage on that.

Mr. NEDZI. Was any discussion had regarding the use of the FBI for electronics surveillance?

Mr. HUNT. No, sir. I never raised the question, because I had raised the question some months earlier regarding the utility of the FBI and the Secret Service in the clandestine operations which in the end Mr. Liddy and I conducted on behalf of the administration. I never raised the question.

Electronic surveillance, again, was something on Mr. Liddy's side

Let me explain what I was charged with doing, if I may, sir. I was charged with forming an entry team. That entry team was to be charged principally with the photography of documents.

Mr. NEDZI. Just a general entry team?

Mr. HUNT. A general entry team.

Mr. NEDZI. To be on call for any assignment it might be given?

Mr. HUNT. That is right. The team had demonstrated its ability in Los Angeles. That was certainly a clean operation. Although it failed to produce, it was not the fault of the team itself. These men worked well together.

The photography was to be its main occupation.

Now, by the time that Mr. McCord appeared on the scene, I understood from Mr. Liddy that he was to be the hitchhiker. In short, the entry team would go into a target where photography was the prime consideration, and at the same time if this target was one which Mr. Liddy's principals—which is how he usually referred to them—deemed one high on their priority list for electronic installation, Mr. McCord would go along with the team simply for the purpose of entry and convenience. That is, my men would open the door, go in and busy themselves with photography, Mr. McCord would go about his business elsewhere.

Mr. NEDZI. What did Mr. Liddy mean when he referred to his principals? Whom did you assume he meant?

Mr. HUNT. After he initially told me the Attorney General, Mr. Dean and Mr. Magruder were the ones with whom he was holding discussions on budget approvals, so forth—of course, on the telephone and in my office at Mullen and Company, where we frequently met, we did not say Dean, Magruder, Mitchell. We said principals, your principals.

For the purpose of clarification, I will say I never met Mr. Mitchell in my life. I have only hearsay information connecting him with the operation. To me it was credible, entirely credible.

Mr. NEDZI. There were no other targets that were discussed, other than those to which you have already testified here?

Mr. HUNT. For electronic surveillance, sir?

Mr. NEDZI. Yes, or photography.

Mr. HUNT. If we had gotten into McGovern's headquarters, we certainly would have photographed them, too. But, as you probably know, that mission never came about. I believe—Well—

Mr. NEDZI. The planning for the Watergate break-in took place in earnest in March or April 1972?

Mr. HUNT. Yes, I would say so. February or March. I cannot recall when the budget was finalized. But I think that was Liddy's third go-round. The initial budget of just under half a million dollars was cut to a figure that he indicated to me was roughly \$235,000 or \$245,000, something like that, and that the biggest chunk had been taken out of the electronic part of the operation spectrum.

Mr. NEDZI. Were you charged with recruiting any personnel for this purpose?

Mr. HUNT. Yes; but of course I had most of them available already.

Mr. NEDZI. How many people did you hire?

Mr. HUNT. Well, I hired—I secured the continuing cooperation of Mr. Barker, Mr. Martinez, Mr. DeDiego; Mr. Gonzales, who was the lock-and-key man, as we say, of the entry team; Mr. Barker I know made some preliminary explorations in the Miami area to determine what friends we might have of Cuban extraction, in the principal hotels on the beach.

I had also, prior to this time, through the good offices of Mr. Robert Bennett, acquired an agent whom I first infiltrated into the camp, the headquarters, of Senator Edmund Muskie.

Mr. NEDZI. Who was that?

Mr. HUNT. Thomas Gregory.

And subsequently he transferred over to Senator McGovern's headquarters as a volunteer. He was not—he was an agent who reported directly to me.

I received reports from another agent as a convenience. He was not reporting to me, and I simply passed along photographs.

Segretti is another individual whom I did not hire or pay but who as a matter of convenience and accommodation I maintained contact with from time to time.

Mr. NEDZI. What was the reason for the considerable reliance on Cubans?

Mr. HUNT. Well, I had tried a couple of Americans, early on, and found them very uninterested.

Mr. NEDZI. Who were they?

Mr. HUNT. One was Mr. Jack Bauman, who had worked with me on the Guatemala project, who is now retired.

Mr. NEDZI. What did you have him do?

Mr. HUNT. Oh, I approached him. I explained we would need some security type of things done during the next 6 or 8 months and wondered if he was available. He was available. He was obviously reluctant to do it, and then he named a price that really put it beyond the pale.

He came up with the name of another man, a locksmith, whom I interviewed. This man was an all around technician, a cameraman, locksmith, he could do lots of things we might need for covert operations. That man had just bought a new motor boat, and he did not want to become involved.

Mr. NEDZI. What was his name? Was it [deleted]?

Mr. HUNT. Yes, sir. [Deleted.]

Mr. Barker had had a very friendly relationship in Cuba with a retired CIA agent named [deleted]. [deleted] had during the Cuban operation been my inside man in the Embassy when I was outside in Mexico operating as part of the Cuban task force.

Mr. Barker said, "Isn't it great [deleted] is retired? Maybe he could help us out."

I said, "Why don't you talk to him?"

He talked to [deleted]—I believe he paid his way from the west coast to Florida. I don't know what exchange took place between them, but [deleted] said he would like to call me at a certain time, we arranged the call, I was in Washington and he was in Florida, and he indicated that he was not interested.

So there we had three Americans in a row, all ex-CIA personnel, who were for one reason or another not interested.

On the other hand, we had my entry team from the Ellsberg operation who felt they owed a very large debt to the United States because of the support we gave to the Cuban people for the Bay of Pigs operation and the untold millions we spent in ransoming the brigade, for the millions we were still paying to support the families of the survivors of the brigade and of those killed, maimed, and wounded there; and they felt this was an opportunity for them to come forward and do something, as they have told me, to help repay that debt in a tangible way.

There was no difficulty in getting Cubans, there was a great deal of difficulty in getting Americans.

Mr. NEDZI. Did you ask the Agency for referrals?

Mr. HUNT. Yes, on occasion. I cannot recall whether [deleted] came to me through the Agency or through Jack Bauman. It could have been either way.

Mr. NEDZI. On June 17 the break-in actually occurred at the Watergate, and you at that time were in the Watergate Hotel which adjoins the office building?

Mr. HUNT. Yes, sir.

Mr. NEDZI. Did you have any active role in the break-in at that particular time?

Mr. HUNT. Let me say, to go back to the first operation, to explain—the successful entry, to explain——

Mr. NEDZI. You should go back to about May 30.

Mr. HUNT. [continuing]. To make the contrast, if I may.

The initial casings of DNC headquarters had been made jointly by Mr. McCord and I. He told me shortly after we were introduced by Mr. Liddy that he had access to the Watergate complex by virtue of the work he did for the Attorney General, who maintained an apartment in the Watergate Hotel, or condominium. Mr. McCord indicated to me he was known as an employee of Mr. Mitchell's, as a security employee of Mitchell's, consequently he was able to go where he chose within the Watergate complex.

There came a time within a few days of our having been introduced by Mr. Liddy that I became aware that the Watergate complex, the DNC, was going to be a target both for photography and for electronics surveillance.

Mr. NEDZI. How did you become aware of that?

Mr. HUNT. Sir?

Mr. NEDZI. How did you become aware of that.

Mr. HUNT. Through Mr. Liddy. To the best of my recollection he told me in advance "I am going to bring along an electronic technician that I have come across that is perfectly OK."

I said, "How do you know he is OK?"

He said, "He is from your old organization, plus that he works for the A.G."

He came to my office one afternoon after 5 o'clock, at Mulle. Mr. McCord and I had never seen each other, we only knew one or two people in common; I think Mr. Bauman was one retiree we both knew.

We did not play "Whom do you know" very long. Mr. McCord was rather taciturn. He wasn't a field man, he was a home office type; we had very little to exchange in terms of war stories, if I may put it that way. And Liddy said, in effect, "McCord, here, is going to handle all the electronics side of things. Now we can go ahead, and the DNC will be the first target."

The next night, or within a very short period of time—we—again going back, Mr. McCord and I went down to the Watergate Office Building and gave it what we considered to be a professional casing, considered routes of access into it, egress, so forth.

He said he thought he could get a floor plan of the Democratic National Committee through his contacts, and in due course he produced such a floor plan—I learned subsequently that was obtained by means of a pretext entry—which an employee of Mr. McCord's, a man unknown to me, named Baldwin, had drawn for Mr. McCord.

So we conducted the entry. It was a successful entry operation. The team went in. There was a preliminary reconnaissance, nobody had ever been inside there before. The photographers did their work, they reported to me subsequently—I say they did their work, they picked up samples of material that were available at random on executive desks, photographed those documents. But they told me there were several banks of file cabinets and that it looked as though one hell of a lot of photography, if you will pardon me, would have to be accomplished in order to fully duplicate the files.

They said they had finished their work before Mr. McCord had finished his; he had been in another part of the Offices where they had not been, that eventually he came out, joined them, and they all exited successfully.

I now go to the period of the second operation.

On or about June 12, I would say, Mr. Liddy approached me in a very agitated fashion at my office at Mullen Co., indicating that the product of Mr. McCord's endeavors was unsatisfactory, and coupled with that it had been just titillating enough that more was wanted by his principals.

Therefore, the order was that a second entry would have to be made. They wanted all of the documents photographed in the files, with particular reference to the account books, of the Democratic Committee. They wanted, as they had before, any evidences photographed that there might be foreign funds flowing into the coffers of the Democratic National Committee; Mr. McCord would go along, as before, as an electronics hitchhiker, he had only a few minutes of work to do; that a transmitter or a bug, I never knew which, had been installed; in any event, there was a faulty transmission of some sort, this would have to be done on a priority basis; and could I reassemble the team from Miami.

I had talked, I believe, with McCord in the interim at one point—I know what the occasion was: He had been given the films that had been taken on the first entry—that is, the exposed film cassettes—to develop. After a few days, Liddy asked him—again this is hearsay from Liddy—where the developed prints were. McCord apparently reported to Liddy the photographer he knew was not in the vicinity, he was on vacation or something, and Mr. McCord could not get the films developed. Therefore, Mr. Liddy asked Mr. McCord to turn the films over to me, which Mr. McCord did personally, two cassettes of exposed 35-millimeter film.

At that time, I believe on that occasion, Mr. McCord indicated to me that the monitor which he had positioned in a line of sight of the DNC headquarters, as I later learned the Howard Johnson Motel, had reported to him as far as he could see and could determine Mr. Lawrence O'Brien had not been near the Democratic National Committee in a matter of days, furthermore a lot of files seemed to be being moved out, and the presumption was that their destination was Florida, where henceforth at this period the National Committee would be reconstituted.

Therefore I, having possession of this information, however collateral, repeated it to Mr. Liddy and strongly objected to making a second entry attempt. I cited the reasons I just gave you, Mr. Chairman. Mr. Liddy said that he thought there was some justice in that,

he would make representations to that effect, as we could always probably bring into action, if you will, a team in the Florida area which could attack the same target if we in fact were able to determine that a target existed; and I no longer felt that a viable target existed in the Watergate.

However, very shortly, it may have been that night or the following morning, Mr. Liddy came to me even more agitatedly and said, "They insist on going ahead. You have got to bring the boys up."

So at that time I either made a quick trip to Miami or called Mr. Barker on an urgent basis, and said, "We have got to go in again, but this time I want you to get another camera, and buy about fifty 35-millimeter cameras, because we are going to have a great deal of photography to do."

That was done. The team reassembled by prearranged rendezvous, the effort was made, it was detected, and the arrests were made.

Mr. NEDZI. What happened to the film from the first break-in?

Mr. HUNT. At about the time Mr. McCord turned the films over to me, I was going down to Miami on a related matter the nature of which I cannot recall. I had called Barker to ask him if he had or knew what we call a person of confidence, to print the film. He said certainly. He met me at the airport within a day or so, I delivered the film cassettes to him, he took me to lunch at a restaurant, within an hour or so or 2 hours he came back to me and said the films were all set; in fact, he delivered a package of films, said he had had them printed on an urgent basis and it cost him \$92, or something like that; I reimbursed him on the spot, took custody of the prints. These were large blowups of the negative strips, went to Washington either that night or the following day, and turned them over to Mr. Liddy.

Mr. NEDZI. What kind of cameras are used on this?

Mr. HUNT. On that, Minolta cameras.

Mr. NEDZI. Just ordinary 35-millimeter cameras?

Mr. HUNT. Yes, sir.

Mr. NEDZI. With what kind of film?

Mr. HUNT. Plus six.

Mr. NEDZI. What kind of light is used?

Mr. HUNT. We had very high intensity bulbs.

Mr. NEDZI. Ordinary flashbulbs, electronic?

Mr. HUNT. No, sir—well, the boys had gone to—Mr. Martinez did have some expertise in photography, and he got the kind of bulb-holder that clamps to the edge of a table, with a bridge clamp. These were very powerful bulbs, about 350 watts each, and provided more than ample illumination for the documents that were placed on the rug. And of course, there was a fixed focal length for the two cameras. We never got to use them both in tandem, but the way the rehearsal had gone, one man was photographing while another was reloading and removing.

Mr. NEDZI. Weren't you concerned about being sighted from the outside? Or were drapes drawn, or how was it done?

Mr. HUNT. The drapes were drawn.

Mr. NEDZI. At the time of the second entry, then, you were in the Watergate Hotel?

Mr. HUNT. Yes, sir, with Mr. Liddy.

Mr. NEDZI. With Mr. Liddy.

When did you first become aware that there was a problem with the second entry?

Mr. HUNT, I first became aware at about 11:30 that night. It came about in this way:

Mr. McCord, who had come earlier to unload some of the walkie-talkies he had, and to test them, check them out, went over to his listening post in the Howard Johnson Motel across the street.

I believe at that time he taped the locks on the basement door that we had decided to use to enter, although we did not know that at this time, we thought he was simply going across to the Howard Johnson Motel to make a check of the walkie-talkies to make sure that we could maintain contact between the two buildings.

His surveillant, Mr. Baldwin, whom I did not know at that time, reported that the lights were out on the target floor. Mr. McCord then came through on the walkie-talkie, to the best of my recollection, and said, "All right, I am coming over." He was a little delayed in returning to our hotel room command post, if you will, which was room 214, and when he came up, he said, "I had to retape the doors."

At this point I shot bolt upright; I said, "What do you mean?"

And he said, "Well, when I went over to the Howard Johnson, to the L.P., I taped the doors; when I came back, I checked them and found my tapes had been removed."

He said, "However, I saw a large stack of mailsacks right in the corner nearby, so," he said, "I presume the mailman or the janitor who was concerned with getting bulk mail out of the office building, had made his move at that interval, seen the tape on the lock, and simply stripped it off. So," he said, "I retaped it."

At this point I said, "Let's junk the operation." And McCord said no, no, no. He said, "I am sure it is just the mailman or the trashman. There is no problem."

Liddy said, "We have got to bull forward with it, they insist on this operation." And with scarcely more than a glance they all filed out of the room.

Mr. Liddy and I went back and sat down, of course turned off the light in the L.P., checked the walkie-talkie that we had, and sat out on the porch, which had a rear view of the DNC headquarters.

We could see no light, up there, although the men reported after a while that they had gained access. We heard that.

I believe the next warning we had was a query from the surveillant across the street, Mr. Baldwin. I might as well call him Mr. Baldwin from now on. I know now who he was.

We heard Mr. Baldwin's voice coming through saying, "Are any of your fellows wearing hippie clothes," and Mr. Liddy and I—Mr. Liddy actually had the one walkie-talkie, and he said "Repeat that. Over."

Baldwin's voice came through a second time, "Are any of your men"—or "people"—"wearing hippie clothes?"

It was loud enough that time that I could hear it from another part of the room. We shook our heads in bewilderment and said "Hell no."

Then Baldwin said, "Well, I see lights going on from above coming down in a descending way, I see men with cowboy hats and sweat-shirts, long hair. But they have guns in their hands and they seem to be heading right for the 6th floor."

He said, "Oh, oh! The light just went on on the 6th floor."

So Mr. Liddy and I were getting this unwelcome information. We still could not see any light coming out of the rear of the Democratic National Headquarters Office, but we stayed out on the porch for a while. Mr. Baldwin reported further to the effect that "oh, oh! I see our boys," and then I heard a voice, which was later identified by Mr. Barker as being his, saying—this was a pocket walkie-talkie, he had it here [indicating shirt pocket]. He spoke into it when his hands were going up, he said, "They have got us." And that was the end of that.

Mr. NEDZI. What did you do then?

Mr. HUNT. At this point Mr. Liddy and I closed the blinds to the terrace. We gathered up all of the electronic materials we could see, everything directly implicating ourselves, packed it in at least two suitcases, or attaché cases, and exited the hotel.

Mr. NEDZI. Where did you go to?

Mr. HUNT. We went to my car, which was fortuitously parked in front of the Watergate Hotel at the time when the "Black Maria" was pulling up in front of the office building.

I drove Mr. Liddy a few blocks up Virginia Avenue where he had parked his Jeep, which was quite identifiable, it was a white Jeep, I believe, an unusual looking car, in any case.

I took James McCord's electronics briefcase, a black Masonite case, I do not remember what Mr. Liddy took with him, but I remember I had the rear of my small car pretty well filled, and Mr. Liddy and I, of course, kept looking back over our shoulders and seeing an ever-expanding area of activity—red lights, flashers, armed police, photographers, so forth, all appeared. To us it was a very dismal scene.

I drove a few blocks more after letting Mr. Liddy out near his Jeep, parked my car, crossed the street, walked down the other side toward the Howard Johnson Motel. As I drew within range of it I used the walkie-talkie Mr. Liddy had returned to me, or had given me, in any case, and I said, "Are you still there," knowing there would be only one person listening. And this guy said, "Yes. It is a hell of a show. It was such a juvenile thing to see."

I said, "Stay where you are. I will be there in a moment."

In a matter of 5 minutes or so I went up, knocked on the door, and this man I had never seen before opened the door and let me in. He had some binoculars and was quite obviously enthralled by this scene of people being led out of the Watergate, more and more police arriving.

He encouraged me to lie down on my belly on the balcony and join him in watching what was going on across the street. I thought this was a very unrealistic reaction to what was going on, and I said to him, "For God's sake, get out of here."

And he said, "Well, I have got all of this stuff to load."

I had still never seen any of the electronic equipment in the apartment.

I said, "Whatever you have got to load," I said, "load and get going." And I gave him a walkie-talkie at this point. I said, "Add this to it."

I said—we both knew McCord had a van he had purchased with some of Liddy's money, garaged in the basement of the Howard Johnson Hotel. I said, "Load the van and get out of town."

He said, "Where shall I go?"

I said, "I don't care where you go, but go far and go fast."

He said, "Shall I take the van to Mr. McCord's home?"

I said that would be the last place to take it. I said, "Anyplace but that."

I opened the door, left, and never saw him again until I saw him on television.

Mr. NEDZI. What did you do?

Mr. HUNT. I then walked back to where my car was parked, went immediately to the White House, parked nearby, carried these couple of briefcases that I had, including McCord's black electronic gear, up to my office in the White House, where I locked it in my safe.

I placed a call then to Mr. Douglas Caddy, who is an attorney I had known at the Mullen Co.—I believe I mentioned him earlier in my testimony—asked him if I could consult him on a matter of some urgency. He said "Well, it is late in the morning."

I said, "This can't wait. I would like to see you if you can see me."

He said, "All right."

I left the White House, walked across the street, signed into the Mullen and Co. building under the name of another Mullen Co. associate, I let myself into my office with my own key, I called Mrs. Barker in Miami, Fla., and informed her things had gone wrong and that the men had been arrested.

I suggested that she immediately call Mr. Caddy, whose home telephone number I gave her, and suggested she call him and ask him to represent the four men as counsel.

I said, "They will have money—bail money available."

I should add, while at the White House I opened my safe not only to put in McCord's equipment but also to open a cashbox I found there which contained \$8,500 for emergency purposes. This was the type of emergency that had been contemplated when I had been given this money.

After leaving Mullen Co., having talked with Mrs. Barker, having given her Mr. Caddy's telephone number, I left the premises, drove to Mr. Caddy's apartment, was admitted by him, explained the situation in general to him, that friends of mine had been arrested on premises of the DNC, that I did not know where they were being held; that I had \$8,500 in bail; that they needed immediate representation; that we didn't want them to be booked, if there was any way they could be gotten off with a forfeiture of fine—which was what was always contemplated if they got caught.

Mr. Caddy said he was not a criminal lawyer, knew nothing about it, spent the next hour or hour and a half calling different members of his law firm, none of whom was enthusiastic to hear from him either at that hour of the morning or concerning the subject about which he was calling.

The end result was, after referral after referral, an attorney named Joseph Rafferty agreed to go down to the District of Columbia jail, or whatever precinct they were being held at, and make efforts to get these gentlemen out on bail or bond.

When that was arranged I left Mr. Caddy's place. It was then about dawn. I drove to my home, entered without anyone seeing me. My wife and two of my children were in Europe at that time, there was

only a maid there and two children. Both of them were asleep, and nobody heard me enter the house.

I went into my bed and fell into a very sound sleep.

Mr. NEDZI. Did you leave Washington at all following this incident?

Mr. HUNT. There came a time when I did, yes, sir.

Mr. NEDZI. When was that?

Mr. HUNT. This came about on Monday, June 19, if my dates are correct.

Mr. NEDZI. Where did you go?

Mr. HUNT. May I go into the circumstances surrounding that, sir?

Mr. NEDZI. Yes.

Mr. HUNT. I reported in for duty at the Mullen Co. offices, as was my custom, at roughly 9 o'clock on Monday morning the 19th.

At about 11:30 that morning I got a telephone call by Mr. Liddy.

Obviously, over the weekend my house had been encircled by the press, the phone almost embargoed by constant use by the press. The FBI came on one occasion to attempt to interview me. I declined to be interviewed. My children were having a very, very difficult time, strangers tramping all around.

I went, as I said, to my office at Mullen and Co. At about 11:30 I got a telephone call from Mr. Liddy, asking me to meet him down the street near the USIA Building immediately.

I did so.

He said, "They want you to get out of town."

Mr. NEDZI. Whom did you think he meant by "they"?

Mr. HUNT. He did not specifically state.

Mr. NEDZI. Whom did you think he meant?

Mr. HUNT. I thought he meant Mr. Mitchell and his allies.

Mr. NEDZI. The "principals"?

Mr. HUNT. Principals, yes. I subsequently learned through—in testimony, that the principals were scattered around different parts of the United States on that particular weekend. I was not aware of that at that time.

Subsequently, Mr. Liddy told me it was Mr. Dean, because I was quite outraged. I think by then I had read in the newspaper that Mr. Dean had authorized that my safe be drilled open, which was ridiculous, because the Secret Service had a key to it. The Secret Service set the combination. They had the combination, they being the ones who set it. There was no reason for a forced entry into the safe, that I could see. I resented it very much. I thought it was a hostile move on the part of the people for whom I had been working and cooperating. It was beyond me.

When the FBI agents appeared at my door, this was always a source of bafflement to me. I thought how did the Attorney General of the United States, who embarked on this operation, have the effrontery to send around the FBI to question the people who carried out the operation in good faith.

However, I am straying, and I apologize.

I was told that at about noon on the 19th, by Mr. Liddy, that they wanted me out of town, better still out of the country. Had my wife and children returned from Europe?

"No."

"Could I go over and join them for the rest of the summer, all expenses paid?"

I said it would mean leaving two of my children and an unattended house here.

He said, "Take everybody with you."

I said, "That is ridiculous, we don't all have passports."

He said, "In any event they are adamant, they want you to get out of the country."

I said, "I don't like the sound of that. I am not going to run to a foreign country. There is nothing to be gained by it."

He said, "Well, you could go to Canada, maybe, for a few days, then you would be close by."

I said, "I will tell you what I am going to do." I said, "I have a legitimate business appointment in New York the following morning," which I had, in connection with Mullen and Co. Television business, I had to go look at some rushes at a film company there whose name escapes me at the moment.

I said, "While I am in New York I will see what evolves. I will call you from New York. My principal concern at this point is getting counsel to represent me."

I said, "From the repetitive presence of the FBI at my door," I said, "From massive publicity I have been getting, from the fact my White House safe has been opened, and my wife's Colt automatic," which I had stored over there as a result of a couple of rapes on the same floor as my office at Mullen and Co." I said, "I am gaining a very poor image, and something is going to have to be done."

I said, "Can you get counsel for me?"

I said, "I don't want to leave the area, I just want counsel who can represent me."

He said, "Well, I like your idea of at least going up to New York."

I said, "I have business there, there is no problem."

I said, "I will go up tonight, even."

There was an airline strike on, I think Braniff was on, and I would have to get in line and take my chances on getting on. I would be out of the area for the evening, have the advantage of reading the evening papers in New York, could see the New York Times in the morning, and evaluate the situation a little more at that time.

Consequently, I went home, began packing in very much of a hurry. I got a phone call from Gordon Liddy within a few minutes of the time I arrived home, saying "Scratch it, the signal has changed, it is off. They don't want you to leave now."

I said, "You just frighten me all the more, because people who can make a decision 45 minutes ago, a decision of the gravest possible nature, and rescind it now." I said for no—"giving me no rationale at all, these are people in whom I am now beginning to have very little confidence. I think my best posture is to continue to go to New York, hold my business conference, which will take the better part of tomorrow morning. I will get back in touch with you during the course of the afternoon. And please, in the interim secure counsel for me."

I did in fact go to New York City that night, I got a plane and flew out of National into I believe Kennedy Airport, stayed that night at a motor inn at the airport motel, went into the city in the morning,

conducted business, used the business phone of the gentleman I was visiting, who was a subcontractor of my firm, to call my wife in London, I knew what her hotel was.

She had just at that moment, because of the time zone difference, read the papers, was very alarmed.

I said, "Really this is no problem at all, it is going to be contained. Liddy is getting counsel for me. Please do not cut short the vacation you have planned for a long, long time. Just stay put."

Am I giving you too much detail, sir?

Mr. NEDZI. Go ahead. That is all right.

Mr. HUNT. I don't want to overburden you here with details.

Mr. NEDZI. We are running into a little time bind.

So you did go to New York.

Mr. HUNT. Went to New York, and having talked with my wife and unsuccessfully attempted to persuade her to stay in Europe, I believe I then called Mr. Liddy again, told him I was going to leave the east coast. I don't recall if I told him exactly where I was going. But I had at that time decided to go to Los Angeles. I said, "I will again be in touch with you."

He said, "Don't call me directly. Reach me either through Caddy or Bennett."

Mr. NEDZI. Mr. Hunt, we will break now. I suggest we recess until 3 o'clock. That will give everybody a chance to get a cup of coffee in the meantime. I was hoping we could finish before a real break of any kind, but I do not think we can.

We will be back at 3 o'clock.

The committee will stand in recess until 3 o'clock.

[Whereupon, at 2:10 p.m., the committee recessed, to reconvene at 3 p.m., the same day.]

Mr. NEDZI. The committee will come to order.

The Chair will just note, Mr. Hunt, that this was a temporary recess and you are still under oath, pursuant to the oath you took this morning.

Mr. HUNT. Yes, sir.

Mr. NEDZI. At the time of the recess you had indicated to the subcommittee that you left New York for Los Angeles.

Mr. HUNT. Yes, sir.

Mr. NEDZI. How long were you in Los Angeles?

Mr. HUNT. I arrived there the night of the 19th. No, I beg your pardon. The night of the 20th I arrived in Los Angeles. I stayed there until Thursday morning, the 22d, I believe, on or about the 22d, then flew to Miami, Fla., in an attempt to see Mrs. Barker. I was unsuccessful, and I returned after a few hours to Los Angeles, and stayed there until about the 27th, 26th or 27th, of June—sir, I am trying to reconstruct—whereupon I flew from Los Angeles to Chicago, Ill., stayed with my wife's cousins.

My wife joined me there, having returned from Europe. She over-nighted there, flew back to Washington, and I flew back to Washington on the 3d of July.

I retained Mr. Bittman as counsel.

Mr. NEDZI. What was the purpose of your journey to Los Angeles?

Mr. HUNT. I had described the chaos reigning around my home prior to my departure. I felt my absence from my home would persuade the press to give my children some peace and quiet.

At the same time, I was hopeful of getting appropriate legal counsel. I made a number of telephone calls from Los Angeles to individuals in the East here, such as Mr. Liddy, Mr. Caddy, Robert Bennett, trying to determine whether or not counsel had been secured for me. The net result was that nothing had been done on my behalf.

Mr. NEDZI. Why did you go to Los Angeles?

Mr. HUNT. There was, of course, no warrant or subpoena outstanding for me at that time, Mr. Chairman.

I went to Los Angeles because it was as far from the east coast as I could get. I also had a close friend from Naval Academy days, a prominent lawyer in the Los Angeles area, who had done legal work for me in the past. I wanted to consult with him to some extent about my problem.

I felt since I had no documents of any kind with me he would be able to at least give me housing and some aid and comfort until the situation regularized itself.

Mr. NEDZI. Who was he?

Mr. HUNT. His name is Mr. Morton B. Jackson.

Mr. NEDZI. And you did not return to Washington until July 3?

Mr. HUNT. July 3, yes, sir.

Mr. NEDZI. At which time you retained Mr. Bittman?

Mr. HUNT. Yes, sir.

Mr. NEDZI. How did that occur?

Mr. HUNT. When I was in Chicago I received a call from Mr. Jackson, who at my request had made—Well, I should preface this by saying that I had been calling from time to time to Mr. Caddy, Mr. Liddy, and I think on one occasion to Mr. Robert Bennett, asking for the names of attorneys who might serve as counsel for me. None of these inquiries on my part had borne any fruit.

Mr. Jackson was in Mexico when I departed his house. I left a note for him—he would have been returning the following day—asking him if he would please as an act of mercy inquire around among the legal fraternity and determine who might appropriately represent me in the Washington area. I gave my forthcoming address in Chicago, and in due course received from him a telephone call giving me the names of two attorneys, one of whom was Mr. Bittman, who lives not far from my home.

I phoned Mr. Bittman from Chicago, if I am not mistaken, and we arranged to meet the evening of July 3 at his home.

Mr. NEDZI. In your conversations with Mr. Liddy what did Mr. Liddy tell you?

Mr. HUNT. At what time, sir?

Mr. NEDZI. In these telephone conversations. You said you were talking to him from Los Angeles.

Mr. HUNT. I might go back just a bit, sir, to indicate that Mr. Liddy paid a visit to me when I was staying at the home of Mr. Jackson.

Mr. NEDZI. In Los Angeles?

Mr. HUNT. In Los Angeles; yes, sir. At that time he came quite by surprise. I think it was the night of the 21st.

Mr. NEDZI. You kept him apprised of where you were?

Mr. HUNT. I must have. I don't recall specifically calling him, but obviously—obviously to me, sir—to find me out there, I must have communicated to him, either to him or to Mr. Caddy, I am not sure.

He informed me first of all that he was leaving the Committee for the Re-Election of the President. He brought out a small amount of money.

Mr. NEDZI. How much?

Mr. HUNT. He gave me \$1,000, which I immediately gave to Mr. Jackson for legal services he was then rendering for me, and in anticipation of further services.

Mr. Liddy told me that I should not worry, that there were no problems, everything was going to be taken care of, just as in any CIA covert operation, that legal fees would be——

Mr. NEDZI. How did he know about CIA covert operations?

Mr. HUNT. I assume as a member of a fellow agency. The FBI is, of course, a member of the intelligence community. He had been on embassy detail here, and at least professed some knowledge of clandestine practice; let me describe it that way, put it that way.

Mr. NEDZI. Will you describe this "clandestine practice" to us?

Mr. HUNT. Within the clandestine services of any nature, I believe, when an operative, or an agent, if you will, is apprehended, captured by the enemy, it is assumed by him and by his superiors, certainly by his family, that he is going—his family is not going to suffer because of the incarceration or apprehension, every effort is going to be made to free him, all legal fees are going to be paid, his family is going to be supported; if he cannot be freed, then certainly every effort is going to be expended on legal effort to get him out—I am talking now about Iron Curtain captures—and if he is fortunate to free himself one day, or be freed, that he would be rehabilitated.

Mr. NEDZI. Was it your understanding when you went to work for the White House, for Mr. Liddy, that similar provisions were going to be made?

Mr. HUNT. Since we were engaged in covert work I assumed all aspects of covert work were embraced in the understanding.

Mr. NEDZI. How could you assume that, when part of the time you were employed, or—well, employed, actually—by a Committee to Re-Elect the President, which is not a continuing thing like the United States Government or a foreign government?

Mr. HUNT. If I may put it this way, sir: To my knowledge I was never at any time employed directly by the Committee to Re-Elect the President. I was cooperating with Mr. Liddy, as I had in the past, in covert operations.

Mr. Liddy was an overt employee of the Committee for the Re-Election of the President. I was a covert employee, if you will, or a collaborator of Mr. Liddy, who understood the rules of the game.

Mr. NEDZI. The point is, what capacity, what capability, does Mr. Liddy have to make those kinds of guarantees? It seems to me that takes an enormous amount of continuity and wealth.

Mr. HUNT. Well, one must think of the people who at that time comprised the Committee to Re-Elect the President. They and the administration were practically indistinguishable, sir, as far as I was concerned.

Mr. NEDZI. So you were comfortable with those guarantees?

Mr. HUNT. I was very comfortable with them.

Mr. NEDZI. When was this kind of question first raised?

Mr. HUNT. "Kind of question," sir?

Mr. NEDZI. The question of providing for families and taking care of legal fees.

Mr. HUNT. It was not raised in the form of a question, sir. Mr. Liddy said "Naturally, everything will be taken care of."

Mr. NEDZI. Is that the first time this kind of matter was discussed?

Mr. HUNT. Yes, sir—with this qualification, if I may: I have stated that on the night the arrests occurred I repaired to my safe in the White House and obtained \$8,500 in cash which I passed to Mr. Douglas Caddy for the bail, if you will, legal fees, of the men apprehended in the Watergate premises. That money had been put in my safe in the White House for just such an eventuality; in other words, it was an emergency situation.

So there had been, obviously, foresight given to the possibility of things going wrong; money had been made available at that time. More money was made available to me by Mr. Liddy when he appeared on the scene and gave me \$1,000 for Mr. Jackson's services.

He told me—I said, "The one thing I really want is the name of an attorney." I said "Who is in charge back there?"

I was still, if I may put it this way, sir, I was very resentful that my safe had been drilled, that I had been ordered on a sleeveless mission to go to Europe, against every instinct that I had. It seemed to me as if disorganization and chaos were the key words around the White House and the Committee for the Re-Election of the President.

Mr. NEDZI. While we are on the question of the safe, what was in your safe that was politically explosive?

Mr. HUNT. Those, of course, are words that we have to attribute to third parties.

Mr. NEDZI. Yes.

Mr. HUNT. All I can think of, sir, is the quasiduplicated Vietnamese cables. I had also——

Mr. NEDZI. Would you describe the contents of the safe, apart from any adjectives that others may have used to describe them?

Mr. HUNT. It was a two-drawer, three-way combination safe, sir. The bottom drawer contained perhaps 1,000 Xeroxes of State Department cables dealing with the Vietnam period. It also contained a dime-store cash box which also had in it a 25-caliber Colt or Browning pistol that belonged to my wife.

In the upper drawer was contained a chronological file of memorandums I had sent to various members of the White House.

Mr. NEDZI. Was there anything in those memorandums you would consider sensitive?

Mr. HUNT. I would say everything in the safe was sensitive, sir, politically sensitive.

Mr. NEDZI. I appreciate the difficulty at that time, but can you give the subcommittee some idea of what those memorandums covered?

Mr. HUNT. Well, they covered, for example, my trip out to meet with Dita Beard, which was—would have been embarrassing, I think, had it been published; yet, there was nothing intrinsically evil or

wrong about it. It was my recollection of what had transpired under difficult circumstances, in her hospital room in Denver.

I know that there was probably a pencil draft I had made of the budget for the Gemstone project.

There were excerpts—I had a long chronological extract done of highlights in Daniel Ellsberg's life.

Mr. NEDZI. Did you have a copy of the profile?

Mr. HUNT. No, sir, not to the best of my recollection. That was down in room 17.

Mr. NEDZI. Did you read the profile?

Mr. HUNT. I read the initial profile.

Mr. NEDZI. Did you read the second one?

Mr. HUNT. I don't recall that I did, sir.

I am not even sure that I was still associated, closely associated, with the room 16 people when that came in. It came in addressed to Mr. Young, I am sure, but I do not believe that I read it.

Mr. NEDZI. Our record indicates that the profile, the second profile, was delivered on November 12.

Mr. HUNT. Well, I am not sure that I read it. It would probably have been delivered to David Young, who was the official recipient, I believe, of communications from the Central Intelligence Agency, that had been initiated by our group.

Mr. NEDZI. If you had not read it, can you account for your not reading it, given the fact that one specific area you were supposed to be working in was the Ellsberg leak?

Mr. HUNT. Well, of course the operation against Dr. Fielding's files had taken place on Labor Day, and we are now talking about November 12. I think a great many events had transpired in that period of time.

Mr. NEDZI. Yours was not a continuing operation as far as the Ellsberg leak was concerned?

Mr. HUNT. No, sir. No, sir.

Oh, let me say this, sir: The decision to prosecute Ellsberg had already been made, and they were proceeding on the basis of prosecution.

Mr. NEDZI. Was there anything else in the safe? What about the material from the CIA?

Mr. HUNT. Material from the CIA, sir?

Mr. NEDZI. Yes. Disguises, the pocket litter.

Mr. HUNT. Oh, no, that was not there at that time. That had all been seized at the Watergate.

Mr. NEDZI. It was seized at the Watergate?

Mr. HUNT. Yes, sir.

Mr. NEDZI. Who was using it?

Mr. HUNT. I think Barker was using my set and one of the other gentlemen was using Mr. Liddy's set; either that, or else they were in the room in 214. They were picked up by the Bureau when they went through.

Mr. NEDZI. The wigs, also?

Mr. HUNT. As far as I know, sir.

Let me put it this way, sir: I took all of that disguise equipment down to the operations room of the Watergate, room 214, that evening. The

men who made up the entry team helped themselves to whatever they wanted. And the last time I recall seeing any of that material was in room 214 in the Watergate Hotel.

Mr. NEDZI. So you returned on July 3, and you had a conversation at Mr. Bittman's home. What was the conclusion of that conversation?

Mr. HUNT. That Mr. Bittman would represent me.

Mr. NEDZI. Had you been in touch with any of the other defendants at this time?

Mr. HUNT. All the other defendants were in jail, with the exception—the last time I had been Gordon Liddy was in Los Angeles. To the best of my recollection that was the last time I had conversed with him.

Mr. NEDZI. You did not see him in the course of the trial, or anything?

Mr. HUNT. During the course of the trial?

Mr. NEDZI. Yes.

Mr. HUNT. Oh, yes. I was only at the trial for 3 days.

Mr. NEDZI. That would have been the last time you say him?

Mr. HUNT. Yes.

Mr. NEDZI. Well, following July 3, did you surrender or was a warrant issued for your arrest, or what occurred?

Mr. BITTMAN. Mr. Chairman, do you have objection if I respond to that question?

Mr. NEDZI. None at all.

Mr. BITTMAN. After I was retained by Mr. Hunt the evening of July 3, I made some telephone calls.

Mr. NEDZI. Mr. Bittman, would you take the oath, please?

Mr. BITTMAN. Certainly.

Mr. NEDZI. Do you swear that any testimony you may give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. BITTMAN. I do.

It was the next day, on July 4, that I called Mr. Peterson at his home to ascertain whether or not any subpoena or warrant was outstanding for Mr. Hunt, because Mr. Hunt and Mrs. Hunt had told me there was a rumor that there might have been an arrest warrant outstanding for him.

Mr. Peterson told me during that telephone conversation that he did not know, but suggested that I call Earl Silbert, the chief prosecutor in the case.

I then called Mr. Silbert and told him that I was representing Mr. Hunt, and asked him whether or not there was any arrest warrant or subpoena outstanding for Mr. Hunt. He replied in the negative.

I told him that Mr. Hunt was available at any time the government wanted to talk to Mr. Hunt, just to call me and I would make him available.

Thereafter no subpoena was ever issued.

Mr. Hunt went down to the U.S. Attorney's office to appear before the grand jury voluntarily. When the indictment was returned in September no arrest warrant was issued, and by prearrangement Mr. Hunt surrendered.

Mr. NEDZI. In September?

Mr. BITTMAN. In September.

Mr. NEDZI. Do you know the date?

Mr. BITTMAN. I do not. I have the date in my briefcase.

Mr. NEDZI. Was there an arraignment?

Mr. BITTMAN. The indictment and arraignment were within a very close period of time.

Mr. NEDZI. In the period July to September, then, Mr. Hunt, were you still on the payroll of the—were you still receiving money?

Mr. HUNT. I had been, according to newspaper accounts, discharged from the Robert R. Mullen Co. I of course had not been billing the White House for services, for many months.

I was receiving my annuity from the Central Intelligence Agency, and by that time my wife had made arrangements with an unknown benefactor to receive funds for legal fees and for living expenses for my family, herself and myself.

Mr. NEDZI. From whom was she getting money?

Mr. HUNT. A man who identified himself solely as Mr. Rivers.

Mr. NEDZI. He was providing her with cash?

Mr. HUNT. Yes.

Mr. NEDZI. How would these cash transactions take place?

Mr. HUNT. I will have to go back a little, if I may, sir, to establish a proper chronology.

I believe that before I returned to Washington on the third of July my wife had had a series of unsuccessful—at least to her unsatisfactory—conversations with Mr. Caddy, with Mr. Bennett, and with Mr. Liddy.

Mr. NEDZI. Was this at your instigation?

Mr. HUNT. No, sir. I was elsewhere.

Mr. NEDZI. But you were talking with her, were you not?

Mr. HUNT. Not on a phone that might have been tapped, no, sir.

Mr. NEDZI. Had she known your whereabouts?

Mr. HUNT. She did not know it until—I did not, in fact, even know when they came back to the country until I read it in the newspaper. Then, by devise, her cousin called her after a few days.

I am trying to reconstruct a rather difficult chronology, sir; so, if you will, bear with me.

Before my wife came to Chicago to meet with me, and before we returned to Washington together, my wife had had a series of unsatisfactory conversations with Mr. Liddy, who was by now discharged from the Committee for the Re-Election of the President; Mr. Caddy, who was fighting for his life in—professional life, in front of the grand jury; and Mr. Bennett, from whom she received no solace at all.

Accordingly—this is hearsay—my wife decided that she wanted to receive some sort of assurances that appropriate counsel would be provided and paid for. And, to the best of my recollection—again, she told me this several days after the fact—she, I believe on the recommendation of Mr. Caddy, got in touch with one or more attorneys at the Committee for the Re-Election of the President and was granted an interview by them, or one or more of them.

Mr. NEDZI. Who were they, do you know?

Mr. HUNT. My wife told me subsequently that she spoke I think first to a Mr. O'Brien, who was astonished and unbelieving that I or Mr. Liddy had been involved in the Watergate affair. However, he said he would look into the matter with all deliberate speed.

To the best of my recollection my wife heard nothing further from anyone until approximately—Was it the third or fourth of July?

Excuse me.

[Mr. Hunt and Mr. Bittman confer.]

On or about July 6 Mr. Bittman reported either to my wife or to us together that he had received a call, an anonymous call, from a man who said he wanted to speak to the author's wife. Mr. Bittman mentioned this to me rather casually in passing, commenting of course that there was only one author that he knew, and that happened to be myself. But it was my impression that Mr. Bittman was not treating the matter particularly seriously; in short, he felt anybody could call him up and use a name which might appear to be a code name. After all, the press was hounding him all this time for statements from me.

To the best of my recollection Mr. Bittman then got in touch with an individual in whom he had confidence, or had reason to have confidence in, to inquire about the authenticity of the phone call, the caller. And I believe he was given reassurance that the caller was a sincere person whose purpose was to render assistance to the arrested defendants as well as the Hunts.

In due course a call came to my wife at her home, our home. She was asked to go to a particular pay phone in Potomac Village. The telephone rang, she answered it, and, as she told me later, a man said "My name is Rivers." He said, in effect—and again I am just constructing, reconstructing, year-old recollection by my wife, who was specifically instructed to give me absolutely minimal information. The man said he wanted to deal only with her, he wanted to deal with nobody else.

And his first—what she told me was that his first inquiry was to find out what the immediate needs of all those affected were, the dollar figure, in short.

My wife, I believe, set about doing this. I believe she got in touch with Mr. McCord; some of the other defendants were still in jail. We got an estimate from Mr. Bittman as to what his legal fees might be for a particular period of time. In short, a budget was made up, a budget—the extent of that budget I do not know. She did not confide in me. I did not want to know, frankly.

Within a few days—again, I do not know how long it was—she received another telephone call at home, went out, and in a few hours, or a couple hours, reappeared, she having given this budget figure to this gentleman who called himself "Mr. Rivers."

Again, within a few more days she made her first pickup of funds for the families and for the attorneys.

Mr. NEDZI. Where were the pickups made?

Mr. HUNT. On the first occasion she did not tell me until afterward. She came into the house. I was working on a book at that time. She said "I have got to go; I will be back in about an hour and a half." She said "I have gotten a call."

When she came back she told me she had been directed to go to the National Airport, by prearrangement she had gone into a particular phone booth in the American Airlines section within 45 minutes of the time she received the starting call, as it were, and she was to reach under the little table in the phone booth, there she would find a key to a storage locker. She went to the storage locker and opened it, and

inside of it was an inexpensive leatherette American Airlines Flight bag.

She took that, got into the car, and drove back home. Subsequently she told me that there was an envelope inside the flight bag, which contained money.

I saw her in the next few days with some smaller envelopes which I presume she was using for the purpose of making disbursements to the families of the men who were apprehended.

Mr. NEDZI. Did she say how much money was in the bag?

Mr. HUNT. No, sir.

Mr. NEDZI. How much money was retained by the Hunts?

Mr. HUNT. I do not know, sir. My wife traditionally handled all of our financial affairs.

Mr. NEDZI. You were not given any cash by her?

Mr. HUNT. No, sir; not at this time. She paid bills with cash as they came due.

Mr. NEDZI. Were your bills being paid in cash?

Mr. HUNT. Had we up until that time paid bills——

Mr. NEDZI. No. Subsequent to that time.

Mr. HUNT. Subsequently substantial bills were paid with cash, yes. Yes.

Mr. NEDZI. Did she discuss with you anything about the possibility of using the CIA as a defense?

Mr. HUNT. Defense?

Mr. NEDZI. Yes.

Mr. HUNT. No, sir. Mrs. Hunt never discussed the legal aspects of the case with me at any time.

Mr. NEDZI. Did you ever discuss that as a possibility?

Mr. HUNT. As a defense, per se?

Mr. NEDZI. Yes. With anyone?

Mr. HUNT. Not to the best of my recollection, no sir.

Mr. NEDZI. No one ever suggested to you the possibility of blaming the CIA for the Watergate break-in?

Mr. HUNT. No, sir.

Will you excuse me a moment, please?

[Mr. Hunt and Mr. Bittman confer.]

My counsel and I discussed on one, or possibly two occasions the extent, any, of CIA involvement in the Watergate affair. That is to say, it was known from the newspapers that certain items that had been furnished by CIA had been seized from the defendants.

We did not discuss the CIA defense as such. We discussed in a very superficial way the possibility—how shall I put it?—of whether or not the CIA actually had been involved. I know this was actually one time that I said I felt CIA had not been involved at any time.

Mr. NEDZI. Who asked you that?

Mr. HUNT. Either Mr. Bittman, or Mr. Mittler, his associate counsel.

Mr. NEDZI. Mr. who?

Mr. HUNT. Mr. Austin Mittler, who is associate counsel with Mr. Bittman.

Mr. NEDZI. Is he still your counsel?

Mr. HUNT. Sir?

Mr. NEDZI. Is he still your counsel?

Mr. HUNT. He is still associate counsel, yes, sir.

Mr. BITTMAN. He is a partner of mine, Mr. Chairman.

Mr. NEDZI. Were you able to see any of the other defendants in the course of the July-September time frame?

Mr. HUNT. Well, Mr. Liddy finally got out. He came over to see me on a couple occasions.

In late August or September my wife and youngest son and I took a fishing trip to the Florida Keys. We were joined there by the Barkers.

Oh, I beg your pardon. Mr. Liddy was not among those arrested.

There came a time when Mr. Liddy came to my house, indicated that he and I now had counsel, and felt we could talk among ourselves, which we did. But we did not discuss the case. He told me he was under restriction from his counsel, as I was with mine.

Mr. NEDZI. So you did not discuss this matter with anybody else?

Mr. HUNT. We did not discuss—the only firm recollection that I have, sir, is that I believe it was on that occasion of my first contact with Mr. Liddy since I had seen him in California, when I again inveighed against John Dean for having opened my safe, and I said “And now I would like to know who it was who ordered me to California”—“ordered me out of the country.”

And he said, “Well, that was John Dean.”

And I said, “Well, it figures.”

Mr. NEDZI. What did you think the reason was to get you out of the country? In other words, what figured?

Mr. HUNT. At the time I received the order I thought it was a very poor idea. The fact it was rescinded within 45 minutes or an hour indicated that my initial appreciation of it was a correct one, a correct and valid one.

Mr. NEDZI. I still do not understand what figured. You said “that figures,” but—

Mr. HUNT. Oh, it figured that John Dean, who had been stupid enough to drill my White House safe and remove materials selectively from it, would also have been the one who ordered me out of the country. That is what I mean. I beg your pardon.

I felt it was part of a pattern of ineptness. let me say.

Mr. NEDZI. You say “removed selectively.” Did he not remove all the contents?

Mr. HUNT. I don't know. I read in the newspaper—I know he removed some materials, like the Vietnam cable. That is all newspaper knowledge that I have acquired.

Mr. NEDZI. You used the word selectively. I wondered what you meant.

Mr. HUNT. He removed Jim McCord's black electronic case, then put it back in. The Vietnam cables I think he took out, handed to Mr. Gray, then destroyed them. I could call that selective removal from the safe.

Mr. NEDZI. Jim McCord's electronic what?

Mr. HUNT. Electronic attaché case, found in my safe, that I brought from room 214 to the White House the night of the arrest.

Mr. BITTMAN. May I make an observation?

Mr. NEDZI. Surely.

Mr. BITTMAN. Mr. Hunt is now, I believe, testifying from information he has seen on television or read in the newspapers, and I think

it should be differentiated on the record what he knew at the time and what he knows now.

There was a time in approximately, I believe, November 1972 that I went down to the U.S. attorney's office to examine the material that the prosecutors had received from Mr. Dean through the FBI. I think one time Mr. Hunt went with me, and we examined the material, and on that occasion we know positively all the information Mr. Hunt knew was in the safe had not been turned over to the prosecutors.

Mr. NEDZI. You are very helpful, Mr. Bittman. My questioning of him on the use of the word "selectively" was for that purpose.

Mr. BITTMAN. Mr. Chairman, Mr. Hunt had only 3 hours sleep last night. I had more.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. I have not been able to be here to hear all of the testimony. You have mentioned the Vietnam cables. Without going into detail, what did that refer to?

I will withdraw my question. There is no need to repeat it. I will read it later in the record.

Mr. NEDZI. To your knowledge does Mr. Bittman represent any of the other defendants?

Mr. HUNT. Not in the criminal suit, no sir.

Mr. NEDZI. Is there any other suit in which he does?

Mr. HUNT. At one time I believe Mr. Bittman did represent Mr. Gordon Liddy in at least one aspect of the civil suit filed against the defendants by the Democratic National Committee.

Is that correct?

Mr. BITTMAN. That occurred in approximately April 1973, after the criminal case had been disposed of.

I had conversations with Judge Ritchie, counsel representing the Democratic Party, counsel representing the Republican Party, and at the request of Mr. Maroulis, Mr. Liddy's attorney, I agreed to act as local counsel for Mr. Liddy because on a number of occasions there would be conferences held on very short notice in connection with the civil case. Mr. Maroulis is a sole practitioner in Poughkeepsie, N.Y. To that extent I accommodated him. So I am of record as local counsel for Mr. Liddy in the civil suit, but that did not commence until approximately April 1973, Mr. Chairman.

I have not represented any of the other defendants in any other capacity, nor have I received, nor do I expect to receive, any compensation from Mr. Liddy, because whatever I have done for him I would do for Mr. Hunt in any event.

Mr. NEDZI. In what—

Mr. BITTMAN. I said, I have not received any compensation from Mr. Liddy nor do I expect to receive any compensation, because all the conferences I attended, or papers I filed in court, the same thing would have to have been done for Mr. Hunt, in any event.

Mr. NEDZI. I understand.

The grand jury issued its indictment in September; is that correct?

Mr. HUNT. To the best of my recollection, yes, sir.

Mr. NEDZI. Your trial was not scheduled until January?

Mr. HUNT. January 8; yes, sir.

Mr. NEDZI. In that interim what kind of defense were you actually considering, or what alternatives in terms of this indictment were you considering?

Mr. HUNT. I don't know that I am really—could I consult with counsel on this?

Mr. NEDZI. Certainly.

Mr. BITTMAN. This is a very difficult question for a layman, Mr. Chairman.

Mr. NEDZI. A difficult question for a lawyer.

Mr. HUNT. I would rather have Mr. Bittman answer the question, as of course I was not party to a great many discussions held within his firm on this particular subject, Mr. Chairman.

Certainly at one point, as I have indicated, a defense based on possible CIA involvement was considered.

Another defense that was considered—

Mr. NEDZI. Let me back up, Mr. Hunt.

Why did you say earlier it was not considered by you?

Mr. HUNT. I think it is a question of degree, sir. I did not at any time consider a defense based on this being a CIA operation. But certainly for smokescreen purposes, to me as a layman it seemed conceivable, with the amount of CIA equipment lying around, this could have been a factor that could have been usable in front of a jury who was unfamiliar with clandestine activity.

Mr. NEDZI. Was this your idea, or was it suggested to you by somebody?

Mr. HUNT. To the best of my recollection it was my idea, because that goes into another—Mr. Chairman, could Mr. Bittman respond on this point?

Mr. NEDZI. Certainly.

Mr. BITTMAN. Mr. Chairman, this came up in this way: Mr. Mittler and myself endeavored to ascertain for ourselves whether or not there was any possible CIA involvement. We did this by talking to Mr. Hunt, finding out what if any equipment was seized by the metropolitan police when the arrest was made on June 17, talking to cocounsel.

We knew six of the seven defendants had worked for the CIA. We had heard Mr. Martinez was still working for the CIA. There was enough on the surface that we pursued it on a preliminary basis, had a number of preliminary discussions among the lawyers—not a lot, but on a preliminary basis—and with Mr. Hunt.

So to this extent a CIA possible defense was discussed. It did not go beyond that.

Mr. NEDZI. When?

Mr. BITTMAN. Oh, "when."

I would have to say I would assume there were discussions commencing perhaps after the indictment was returned in September, because at that time no charges had been levied against Mr. Hunt and possibly continued up until December, although I think this point will be clarified very shortly, because we did not actively pursue any defense in the case subsequent to December 10 of 1972, and that was 2 days after Mrs. Hunt was killed.

Mr. Hunt came to my home on December 10 after he returned from Chicago, and indicated to me that in no circumstances would he go to trial.

That set in course a number of things that occurred—discussions with the prosecutor with respect to a severance of Mr. Hunt from the other defendants, possible lengthy continuance, plea bargaining was initiated. A number of things occurred subsequent to his wife's death.

So these other aspects were discussed prior to that time.

Mr. NEDZI. Why would it take 2 months of discussion to arrive at a conclusion that the CIA was not a viable defense, in light of Mr. Hunt's categorical assertion that there was no involvement?

Mr. BITTMAN. Because I felt there was enough on the surface, Mr. Chairman, that perhaps things were going on that Mr. Hunt did not know.

There came a time when I knew of Mr. Liddy's principals, learned this from Mr. Hunt. And I just felt there were a lot of things Mr. Hunt did not know; and I believed I specified those before.

This was only one of the possible defense—I mean, every trial lawyer—and I have been doing nothing but trial work for about 14 years—pursues every possible defense, even though some of them may appear ludicrous in hindsight.

Mr. NEDZI. I appreciate that.

Mr. BITTMAN. This is only one of the things that was discussed. I don't want the subcommittee to believe we sat down for weeks and weeks and weeks and discussed CIA defense. That is not the fact. My associate, Mr. Mittler, and I looked into it, discussed it with other counsel. There came a time we asked them to discuss it with their clients, to determine whether there was any validity or viability to the defense.

Mr. Hunt told me at one time that if it had been a CIA operation, for example he would not be authorized to tell me, because of the Agency.

Mr. NEDZI. He what?

Mr. BITTMAN. He indicated to me at one time that had it been a CIA operation none of the defendants would be permitted to tell the lawyers that it in fact had been sponsored by the CIA. This is something he mentioned to me.

Mr. NEDZI. It wouldn't prevent him from telling you that.

Mr. BITTMAN. That is my point, the point I am trying to make.

But this is one thing that was discussed. I can go into the other defenses if you want me to. But—

Mr. NEDZI. Well, what I am trying to get at, Mr. Bittman, is what led you to believe—you said there were things Mr. Hunt was not aware of, or possibly not aware of, that he was in fact not aware of.

Mr. BITTMAN. I think there were a lot of things Mr. Hunt was not aware of. I think there are things to this day Mr. Hunt was not aware of.

Mr. NEDZI. Well, that would lead to the viability of a CIA defense?

Mr. BITTMAN. For example, Mr. Chairman, had I known back in August, September, October, and November, of communications between the White House and the CIA, and the FBI and the CIA, believe me I would have pursued this defense in earnest, and I would have sent subpoenas to those agencies and conducted vigorous discovery, to obtain that information.

I had no knowledge of that. But there was enough information that I had that, as a lawyer pursuing all possible defenses for a client, I wanted to find out on my own if there was any CIA involvement.

As I said, six of the seven defendants had been employed by the CIA, one of those defendants, we understood, was still employed by the CIA. Some of the identification and objects that have been seized by the police came from the CIA. There was reference by one of the police officers when Mr. McCord was arrested that indicated he was working with the CIA. There were a number of things on the surface which I think caused me to pursue that aspect to find out if there was any validity to it or not. We ultimately determined there was not.

Mr. NEDZI. That is not precisely what you said before, that a tragic occurrence is really what deflected you from pursuing this further.

Mr. BITTMAN. That is exactly right. But it had been determined prior to that time, to the best of my knowledge, that that defense would not be pursued.

Mr. HUNT. It was certainly not my understanding, sir—

Mr. NEDZI. When did you determine that it would not be pursued?

Mr. BITTMAN. That is a very difficult question. This was not a defense that we—well, I am trying to think how I could phrase it. There is no way to put a cutoff date on something like this.

Mr. NEDZI. Sure there is. At some point you become convinced that there is no sense to it. Mr. Hunt is saying continually that—wasn't he describing his participation, to you, in this whole matter? Did he not tell you in substance what he has told the committee today?

Mr. BITTMAN. He certainly has. But much of what he told the committee today—

Mr. NEDZI. And you did not believe him.

Mr. BITTMAN. Mr. Chairman, that is not what I am saying.

Much of what he told the committee today is based on a lack of knowledge by Mr. Hunt. Mr. Hunt did not participate in meeting with Mr. Magruder, Mr. Dean, Mr. Mitchell. The only thing Mr. Hunt knew is what Mr. Liddy told him.

Mr. NEDZI. Mr. Hunt knew how Barker was hired. Mr. Hunt knew all the CIA—the former CIA employees who were in this operation. Mr. Hunt knew where the wigs came from, and the pocket litter and the stuff the police picked up at the time of the arrest. He knew, he could explain every single item that involved the CIA in this operation.

Mr. HUNT. With one exception. Mr. Chairman: I did not know at that time that Mr. Martinez was then an employee or informant of the Central Intelligence Agency on a salaried basis. I have been given to understand by means of the diary or journal he had been keeping the CIA posted of our plans and our activities.

Mr. BITTMAN. One other thing, Mr. Chairman, I think in fairness you have to—

Mr. NEDZI. He was keeping the CIA posted of your activities in the "Plumbers" group?

Mr. HUNT. That is my understanding; yes, sir.

Mr. NEDZI. Where did this information come from?

Mr. HUNT. A diary of his was seized.

Mr. NEDZI. By whom?

Mr. HUNT. By the FBI.

Mr. NEDZI. Who gave the information to you?

Mr. HUNT. I believe one of the other defendants.

Mr. NEDZI. Who?

Mr. HUNT. Mr. Sturgis, I believe.

Mr. NEDZI. Mr. Hunt, this is very dramatic testimony. I want to make it clear to you, in my mind, and I want to be certain that you understand the gravity of it, and point out to us, to the best of your recollection, who the individual is. Mr. Sturgis told you this?

Mr. HUNT. To the best of my recollection it was Mr. Sturgis. But I understood, sir, that a diary had been seized in the car Mr. Martinez left behind at the Miami airport when he flew up here for the second entry operation, and that diary was sort of a shorthand report from through which he reported to his current CIA case officer.

This came as quite a shock to me when I found out that he had been maintaining any diary at all.

I have understood subsequently, I believe through Mr. Sturgis, although it could be a matter of public report at this point, that such a record was in fact seized and that there was a case officer in charge of Mr. Martinez at that time to whom he was reporting, to whom he was reporting our activities.

Mr. NEDZI. When did you learn this?

Mr. HUNT. I think only since I have been up at Danbury Prison, which is about 4 weeks now.

Mr. NEDZI. Mr. Sturgis told you this?

Mr. HUNT. To the best of my recollection. I don't think I knew about it—on the other hand, I thought the diary had been seized by the Bureau, and such interpretation was possible—

Mr. NEDZI. Of course, this information is totally unrelated to the defense, because you had no knowledge about that.

Mr. HUNT. That is true.

Mr. NEDZI. So the question still occurs as to why we got so bent on involving the CIA in this project, in light of the fact that you could explain every CIA involvement in the whole operation. Any evidence whatever that tied the CIA to this could have been explained by you, could it not?

Mr. HUNT. I don't know that it could have been, no sir.

Mr. NEDZI. Is there anything you have learned that could not be explained?

Mr. HUNT. I don't know where the money came from.

Mr. NEDZI. Well, you don't know that it came from the CIA?

Mr. HUNT. No, sir. But I don't know that it didn't.

Mr. NEDZI. Do you believe it came from the CIA?

Mr. HUNT. I can speculate where it came from.

Mr. NEDZI. Would you, for our benefit?

Mr. HUNT. Initially, when Mrs. Hunt began receiving funds, I believed it came from the CIA.

Mr. NEDZI. What led you to that conclusion?

Mr. HUNT. The CIA is a service organization for the intelligence community. I felt if the Executive Office of the President had wanted payments to be made—and certainly this has been done by every administration that I have been associated with as a career officer with the Central Intelligence Agency, the Central Intelligence Agency picks up a black bag and goes off and funds somebody. There was no reason for me to believe it was not.

Mr. NEDZI. Are you aware of any instances where this has been done domestically?

Mr. HUNT. I did not limit it to domestically, sir.

Mr. NEDZI. I understand that. Of course I am sure you are aware of domestic CIA operations that are still underway, operations based in the United States but with foreign targets.

Are you aware of any money being dispensed in this fashion?

Mr. HUNT. No. I have been retired for 2 years, sir.

Mr. NEDZI. Prior to your retirement.

Mr. HUNT. Well, I know the Congress for Cultural Freedom, Radio Free Europe, a lot of these organizations that were theoretically simon-pure, were being funded by the Central Intelligence Agency.

Certainly many publishers are receiving black-bag donations from the Central Intelligence Agency.

Mr. SLATINSHEK. How do you know this? You say that "many publishers" are receiving black-bag donations.

Mr. HUNT. Were, sir. Were.

Mr. SLATINSHEK. Were. Could you identify any of those?

Mr. HUNT. Yes. I have paid them off.

Mr. SLATINSHEK. For illustration?

Mr. HUNT. Frederick A. Praeger, Inc.

Mr. SLATINSHEK. Can you give us some of the circumstances?

Mr. HUNT. Frederick A. Praeger—this goes back quite a few years. Praeger Corp. brought out a book called *The New Class*, by Milovan Djilas, the chief economist-theoretician in Yugoslavia. To assure widespread sales for this book the Central Intelligence Agency subsidized its sale; that is, it gave money to Praeger to enable the price to be lowered so that the volume could increase around the world. That was the beginning, I believe, of a long relationship with the Praeger organization.

Mr. SLATINSHEK. Were you personally involved in that?

Mr. HUNT. Yes, sir.

Mr. SLATINSHEK. How much money was transferred?

Mr. HUNT. I have no idea.

Mr. SLATINSHEK. What was your involvement?

Mr. HUNT. At one time I was working for the CIA Domestic Operations Division, and I had the Praeger Corp. as one of my cases.

Mr. SLATINSHEK. Would you not be the contact, then, for transfer of any funds?

Mr. HUNT. Yes, sir. But we are talking now of more than 10 years ago.

Mr. SLATINSHEK. Yes. But I am trying to ascertain how much money was involved. I would assume you would be aware of—

Mr. HUNT. Not after 10 years, sir; no. I can tell you funds were of two types. There was an ongoing subsidy paid by the Agency to Praeger to cover overhead expenses. Then, for every book that the Agency selected that it wanted published, for example a book on Sikkim, or some aspect of a rare territorial claim in the Southeast Pacific, these are special interest books, these were paid for in their entirety by the Central Intelligence Agency.

There is nothing new about this, gentlemen. This has all been in the newspaper reports. Praeger has been publicly identified as a recipient of clandestine funds.

Praeger sold out and went off to Austria, and the firm has since been absorbed by another company.

Mr. SLATINSHEK. Mr. Chairman, may I jump back to Mr. Martinez and the diary? Or do you want to pursue another course of questions?

Mr. NEDZI. Go ahead.

Mr. SLATINSHEK. You indicated, sir, that Mr. Sturgis advised you it was his understanding Mr. Martinez had kept a diary, and the diary apparently had been seized by the FBI, and that diary was the basis for Mr. Martinez' reporting to the CIA case officer on the activities of your group.

Mr. HUNT. Yes, sir.

Mr. SLATINSHEK. Did Mr. Sturgis say all of this to you, or is any of this conjecture on your part?

Mr. HUNT. No. I think some of this is conjecture on Mr. Sturgis' part. Everyone was shocked to find out (a) that Mr. Martinez had maintained a diary; the fact it had been seized was even worse.

I think Mr. Sturgis' impression, and as conveyed to me, as I construed it, was that Mr. Martinez was being used by the Central Intelligence Agency as an informant on the Latin American community in the Miami area, with some emphasis on narcotics, collection of narcotics information, but at the same time Martinez had been so indiscreet as to include in there references, for example, to the fact he and others had been brought up here on the occasion of J. Edgar Hoover's lying in state at the Capitol, operational situations like that, which you really should not have reported to anyone.

Mr. SLATINSHEK. What I am trying now to ascertain is, obviously, whatever information you might have or Sturgis might have suggested which would give basis in fact to the assumption that he did report your activities to a CIA case officer.

Mr. HUNT. I think the fact of the notebook—I am at a loss, gentlemen. I don't know whether such a notebook has ever been entered in evidence or not. I have heard frequent references to Martinez' notebook that was seized in his car at the time the car was seized at the Miami Airport. It was traced there, that there was such a notebook. I don't know that it was ever entered into evidence.

Mr. SLATINSHEK. You make reference to Mr. Martinez as being an employee of the CIA. Would he perhaps be better characterized as a source of information?

Mr. HUNT. An informant.

Mr. SLATINSHEK. An informant who was given some stipend periodically by a case officer, which is a normal way of operating in the intelligence community?

Mr. HUNT. Yes, sir.

Mr. SLATINSHEK. So he is not really an employee of the CIA?

Mr. HUNT. I don't know that he is, no sir.

Mr. SLATINSHEK. You cannot elaborate in any way for the subcommittee's interest in attempting to identify whether or not Martinez did in fact report your activities to the case officer?

Mr. HUNT. No, sir; not without the evidence of the diary itself.

Mr. NEDZI. Mr. Hunt, you stated that it was your conjecture that the money which Mrs. Hunt was disbursing came from the CIA.

Mr. HUNT. At one point; yes, sir.

Mr. NEDZI. At which point was that?

Mr. HUNT. I think initially. I think the use of a telephonic pseudonym, the fact that she was contacted indirectly and then put into a different—then on a different telephone system, the pay phone system, the way the first pickup was made, all this to me suggested tradecraft.

Mr. NEDZI. When did you cease believing that it was CIA?

Mr. HUNT. The time—at the time that she made a pickup behind a garbage can in Potomac Village.

Mr. NEDZI. When was that?

Mr. HUNT. I would say in October, sir.

Mr. NEDZI. In October?

Mr. HUNT. Yes, sir. She received instructions—she got a call at the house, departed, went down to the village, received another phone call down there, and when she came back she was livid. She had been told to proceed to a trash can between a Safeway store and a Peoples Drug Store which adjoin. On this particular Sunday both stores were open, and there was a tremendous flow of people going back and forth, and yet there she was—a well-dressed woman, lady—burrowing down behind a trash can for no good reason, no credible reason.

It seemed the height of amateurism, and at that time I decided nobody with any kind of clandestine trade background would be associated with this.

Mr. NEDZI. This was in October?

Mr. HUNT. It was, I think, in October; yes, sir.

Mr. NEDZI. Did you tell Mr. Bittman about your speculation that the CIA was the source of the funds?

Mr. HUNT. I don't think I did, sir; no.

Mr. NEDZI. Why not?

Mr. HUNT. I didn't feel it was germane to our case in any particular way.

Mr. NEDZI. You were discussing possible CIA involvement.

Mr. HUNT. I don't think that early on; no, sir. Besides, how would it have been provable, sir?

Mr. NEDZI. That would be for someone else to decide.

Mr. HUNT. Yes.

Mr. NEDZI. You did not feel that was pertinent?

Mr. HUNT. Whatever I felt about it, I did not communicate it to Mr. Bittman.

I felt the money could have come from a variety of places, sir, I believe I indicated that earlier, until the evidence of the total lack of tradecraft on the part of those who were providing the funds to my wife. At that point I ruled out the CIA as a source of the funding, at least. I did not rule out in my mind other possible sources of funds.

Mr. NEDZI. At this point the subcommittee will take a 10-minute recess.

[Whereupon, at 4:15 p.m., the subcommittee recessed, as indicated by the chairman.]

[Discussion off the record.]

Mr. NEDZI. The subcommittee will come to order.

At the time of the recess, Mr. Hunt, you had indicated that Mrs. Hunt had picked up some funds behind a garbage can?

Mr. HUNT. Or trash can, I am not sure.

Mr. NEDZI. At that point you no longer believed that these funds were coming from the CIA.

At that point who did you think the funds were coming from?

Mr. HUNT. I believe they must have been coming from a private source.

Mr. NEDZI. Any further speculation in the matter?

Mr. HUNT. Well, when I say private source, I was thinking in terms of people who are close to the administration who had been approached and volunteered to provide funds for the defendants. I had no specific person in mind, no, sir. At that time I did not know any names or do not today.

These were anonymous donors as far as I was concerned.

Mr. NEDZI. Were you personally satisfied everything was being done that you thought appropriate in light of the circumstances, as far as you personally were concerned?

Mr. HUNT. As far as I personally was concerned, yes, sir.

Mr. NEDZI. Were your attorney bills paid?

Mr. HUNT. My attorney bills were always—reimbursement was always running behind, let me put it that way. But I still believed in the assurances that had been given that they would be kept up. I know Mrs. Hunt had the unasked-for role that she was performing, which was a very onerous one for her. She did not enjoy it at all. It just called for her to have at the very least telephonic contact with Mr. McCord, for example. She saw Mr. Barker in Miami on one or two occasions, I believe.

She knew that some of the defendants were hard pressed for funds simply to pay their attorneys. And when these calls would come from Mr. Rivers, or on one occasion a man who represented himself as a friend of Mr. Rivers, or an associate of Mr. Rivers, who indicated Mr. Rothblat was owed so much, Mr. Maroulis was owed so much, our legal fees were running behind, and so forth.

In the overall sense, we were satisfied that substantial efforts were being made to take care of us to the extent that that could be done.

But, on the other hand, she felt she had been placed in the uncomfortable position of being the only person that Mr. Rivers, whoever he was, would deal with. At the same time, she was asked to reassure Mr. Barker, and then his attorney through Mr. Barker, that everything was going to be taken care of and going to be all right. And when a promised date or scheduled date for pickup arrived and was not kept, this was terribly upsetting to her.

Mr. NEDZI. Well, during this period, were you receiving any funds?

Mr. HUNT. Personally?

Mr. NEDZI. Yes.

Mr. HUNT. I was receiving no funds, no, sir. I made one pickup for her when she was ill, that was all.

Mr. NEDZI. How much was in that pickup?

Mr. HUNT. I did not open the envelope. I turned it over to her unopened. I don't know how much was in it.

Mr. NEDZI. Was any money being given to your family?

Mr. HUNT. Mrs. Hunt, I assume, was taking from whatever gross there was, whatever part of the budget that she had arranged with her initial caller, Mr. Rivers, or whoever he was, to take care of family expenses.

Mr. NEDZI. You and Mrs. Hunt as husband and wife never discussed this whether it was adequate and satisfactory?

Mr. HUNT. It seemed to be adequate and satisfactory to her. She made the arrangement. They wanted to deal only with her. She was specifically told they did not want me involved.

Mr. NEDZI. When you say "they"——

Mr. HUNT. The people who called, whether Mr. Rivers or a friend of Mr. Rivers.

Mr. NEDZI. Who paid Mr. Bittman?

Mr. HUNT. Mr. Bittman was paid in one instance by an anonymous delivery of funds. I may have some notes on that.

May I consult with counsel on that?

Mr. NEDZI. Certainly.

Mr. HUNT. Just to refresh my memory, Mr. Chairman.

Mr. Bittman received an anonymous contribution of \$25,000 initially.

Mr. NEDZI. When was this, Mr. Hunt?

Mr. HUNT. Sir?

Mr. NEDZI. When was this?

Mr. HUNT. Before the end of July 1972.

Mr. NEDZI. This was at a time when you assumed the CIA was taking care of you?

Mr. HUNT. Not assumed, where I believed CIA would have been an appropriate conduit for the funds.

Mr. BITTMAN. In fairness to Mr. Hunt, Mr. Chairman, I think he testified that CIA was one of the possible sources of these funds. I don't think he said that it was, or that he thought it was the CIA. My recollection of his testimony is that he thought the CIA could have been, but there were other possible sources of these funds. That is as I understand.

Mr. NEDZI. Mr. Bittman, that is not my recollection. We are not going to take time to go back——

Mr. BITTMAN. The record will speak for itself.

Mr. NEDZI. What is your testimony at the present time?

Mr. HUNT. My testimony is I was notified by Mr. Bittman on a certain day in July he had received an envelope containing \$25,000, which I don't know whether he received a notation to the effect it was for my legal fees or not. In any event, he told me that would be applied to my legal fee.

On the second occasion, Mr. Bittman called me and told me he received an envelope directed to me, addressed to me. I opened that envelope and I found \$20,000 in it in cash. I handed that money to Mr. Bittman.

Subsequent payments I made to Mr. Bittman by check, and was reimbursed in cash for my outlays.

Mr. NEDZI. What were they, and the dates?

Mr. HUNT. The \$20,000 was October 13.

Mr. NEDZI. Was that in a check?

Mr. HUNT. That was cash. That was the cash I turned over to Mr. Bittman.

Subsequent to that, I paid him \$50,000 in January and \$60,000 in April.

Mr. NEDZI. Where did you get the money?

Mr. HUNT. I had the money in my own account, sir. It was personal funds.

Mr. NEDZI. This was your savings account?

Mr. HUNT. Some of it was in my savings account, some of it was in my checking account.

Mr. NEDZI. Where did the money come from?

Mr. HUNT. The money came from the proceeds of my dead wife's insurance, which is more than a quarter of a million dollars.

Mr. NEDZI. Mr. Bittman, how did you happen to get these anonymous envelopes? How was it delivered to you?

Mr. BITTMAN. Mr. Chairman, I received a telephone call in early July, I believe, I don't have any notes with me, but I believe it was July 6, from a man who identified himself as Mr. Rivers. And the envelope was delivered to me in the office building where I am. The same procedure was followed in October, I believe—

Mr. NEDZI. What did he say to you?

Mr. BITTMAN. Well, there were several conversations I had with him. If you want me to go into it, I will.

Mr. NEDZI. What is your recollection?

Mr. BITTMAN. My recollection is that the morning of July 6 I received a telephone call from a man who identified himself either as Mr. Rivers or Mr. John Rivers, I don't recall which, and he was talking in terms of funds for the defendants in a way that I thought was very ominous, and I would not talk to him, and I hung up.

I then had a meeting—

Mr. NEDZI. Was this before you got a call to contact somebody—somebody wanted to contact Mrs. Hunt?

Mr. BITTMAN. It could have been the same call, but—that could have been the same telephone call. Whatever it was, I had represented people in the past, wealthy people, where there had been certain threats or efforts to extort money, and it appeared to me this was that kind of a call. I didn't like it. So I hung up on him.

Mr. NEDZI. Help me on that.

What do you mean "efforts to extort money"? What do you mean?

Mr. BITTMAN. I have represented wealthy clients in the past, Mr. Chairman, where efforts have been made to extort money from them in connection with selling them information, or threatening them with other information, and things like that.

I have had personal experience in the past. This particular call bothered me because Mr. Rivers would not identify himself or really the specifics of the telephone call, he wouldn't come and see me and I wouldn't talk to him.

According to my recollection, I stopped the conversation, I hung up on him, told him I would not talk to him under those circumstances.

I then had a meeting with Mr. Robert Mardian, Mr. Ken Parkinson, Mr. Paul O'Brien, and Mr. Tom Jackson, at the offices of the Committee to Re-Elect the President.

I believe Mrs. Hunt had told me, she had spoken with Mr. Mardian or something to that effect, and asked me to see Mr. Mardian, particularly about the break-in of Mr. Hunt's safe, and to indicate to them that I was Mr. and Mrs. Hunt's attorney. I had that meeting, I believe, on the afternoon of July 6.

The only reason why that is significant is because during the course of that conversation the name of Rivers came up. To the best of my

recollection, Mr. Paul O'Brien mentioned it, and I related this peculiar telephone call that I had received.

And that evening, the evening of July 6, I received a telephone call from Mr. Ken Parkinson who told me that Mr. Rivers was OK to talk to—something similar to that.

So then when I received a subsequent call from Mr. Rivers who asked me what I wanted as a retainer, I told him \$25,000. That is the background of that particular call.

Mr. SLATINSHEK. Mr. Chairman, may I interrupt at this point?

Mr. NEDZI. Yes.

Mr. SLATINSHEK. I don't know whether I heard Mr. Hunt correctly. Did I understand you to say that you had paid Mr. Bittman a \$25,000, \$20,000, \$50,000, and \$60,000?

Mr. HUNT. I believe I put it this way; I knew Mr. Bittman had received \$25,000.

Mr. SLATINSHEK. Right.

Mr. HUNT. He has just explained the circumstances of that receipt.

Mr. SLATINSHEK. Right.

Mr. HUNT. At a subsequent time, date unknown to me, Mr. Bittman informed me that he was holding an envelope addressed to me. I opened—I received the envelope from him, opened the envelope, counted its contents, found \$20,000 in it, turned it over to him at that time.

Mr. SLATINSHEK. That is \$45,000?

Mr. HUNT. That is \$45,000. Subsequently, I paid Mr. Bittman \$50,000 and \$60,000.

Mr. SLATINSHEK. That is \$155,000.

Mr. HUNT. Yes.

Mr. SLATINSHEK. Let me make a personal observation.

Mr. HUNT. And I had given him \$1,000 retainer the first night I met him.

Mr. SLATINSHEK. That is \$146,000.

Mr. NEDZI. \$156,000.

Mr. SLATINSHEK. Yes, \$156,000.

All I can say is I express amazement at the fee. I am a little bit surprised at that. I won't comment any further on that.

Mr. BITTMAN. I would say in view of the fact you are making that statement on the record, I think you should give me opportunity to clarify it.

Mr. SLATINSHEK. It would be helpful.

Mr. BITTMAN. It appears to be you are expressing some concern over it.

Mr. SLATINSHEK. Yes, I am.

Mr. BITTMAN. In view of the fact you made the statement on the record, I think I would like to clarify it.

Mr. SLATINSHEK. I think you should. Let me explain, and I am not reflecting on you personally, I am expressing surprise at what appears to me a rather extraordinarily high fee. But I am not familiar with these things. Perhaps you could explain to us why this fee to me seems somewhat extraordinary but to you probably is a reasonable fee under the circumstances.

Mr. BITTMAN. The fee is based upon my law firm's standard billable

hours. You have to recognize that we were not only defending a very complicated, protracted criminal case, but also a civil case. So there were two cases going on simultaneously. And we had as many as four or five working on these two cases full time for a considerable period of time.

In addition, there were a number of other things that our law firm did, such as legal work connected with Mrs. Hunt's death, drafting up will and trust instruments, and handling problems that arose out in Chicago. There were a number of different things.

But I do want the record to reflect the entire fee is based upon billable hours. There is no such thing as a bonus whatsoever in this particular fee. Our records will so reflect.

Mr. SLATINSHEK. Thank you.

Mr. NEDZI. Did you ever learn where this money came from?

Mr. HUNT. No, sir.

Mr. NEDZI. When you received the envelope, Mr. Bittman never advised you of his meeting with Mardian and Parkinson?

Mr. HUNT. I don't believe he did at that time, no, sir.

Mr. NEDZI. At what time did he advise you?

Mr. HUNT. I don't know that he ever did. I don't think the name Mardian has ever come into our conversation in a context previous to now.

Mr. NEDZI. When did you first learn of the source of the money?

Mr. HUNT. Well, I don't know that even today, sir, I am fully conscious or aware of the source of the funds.

I think this is a matter that the Senate committee is pursuing rather avidly. I do not know where the funds came from, though.

Some people say that it came from the White House. Other people say it came from CONVEC. Other people say it came from a safe in Maury Stans' office. I don't know where the money came from.

Mr. NEDZI. Are you persuaded it did not come from the CIA?

Mr. HUNT. Having lived with the CIA for so many years, sir, and been involved in funding operations for the Agency, I would say that it was not impossible that the funds came from the CIA.

My personal speculation, conjecture, is that it did not come from the CIA, based upon the very crude tradecraft or absence thereof which I saw demonstrated in the delivery of one package.

Mr. NEDZI. Mr. Hunt, Mr. McCord appeared before our subcommittee last week, and in the course of his testimony he said that he was informed by Mr. Barker just before the trial began in January of 1973 that you, and another unnamed person in Miami, had brought intense pressure to bear against the Cuban-Americans who were defendants to use the same story as their defense. This is referring to the CIA as the defense.

My stand against it had been the decisive factor causing this ploy to be dropped. And that Hunt was very bitter about it. Hunt's bitterness was later revealed early in the trial when the Cubans advised that Hunt had said that I was responsible for our being in the plight we were in for not going along with the CIA thing.

Mr. HUNT. Would you like my comment on that, sir?

Mr. NEDZI. Yes.

Mr. HUNT. I deny that I ever uttered those words.

Mr. NEDZI. Were you ever informed, or were you in any way aware of any effort being made to influence Mr. McCord to use the CIA as an excuse for the operation?

Mr. HUNT. No, sir.

Mr. NEDZI. At no time?

Mr. HUNT. At no time; no, sir.

Mr. NEDZI. When did you first learn that Mr. McCord had said that he was approached to use the CIA as a defense?

Mr. HUNT. To the best of my recollection, sir, it was during Mr. McCord's testimony before the Senate.

Mr. NEDZI. You never heard anything about that before?

Mr. HUNT. The letter to the judge, yes, sir, which was filed with a number of vagaries, but I never heard it as such before, no, sir.

That would be, say, prior to March 23.

Mr. NEDZI. Would you describe those vagaries?

Mr. HUNT. Well, he said that he had—you have Mr. McCord's letter, sir, to the judge, or his statement in court to the effect—

Mr. NEDZI. Yes.

Mr. HUNT [continuing]. He was afraid to testify before the FBI. He only wanted to talk with the judge.

Mr. NEDZI. You were afraid to talk to the FBI, too, were you not?

Mr. HUNT. No, sir, I was not. I had no obligation to talk to the FBI.

Mr. NEDZI. Well, except in the course of your conversation, there was an underlying atmosphere of distrust of the FBI within the Plumbers' group, was there not?

Mr. HUNT. Yes, sir, that was at a different level, in a different context, I believe, where the FBI was being asked to conduct a sensitive operation, where it is involved in a criminal matter. I realize those are two different levels of thought and operation.

Mr. NEDZI. Anything else?

Mr. HUNT. The alleged threats on Mr. McCord's life—he made some allegations about my wife having made statements to him which I know she simply could not have made, because she didn't use that kind of grammar.

There is a rule of best evidence, if I had this letter I could go through it.

I received a letter which I entered into evidence before the Senate committee, a letter received on December 6 from Mr. McCord that made absolutely no sense then, and makes no sense now.

Mr. NEDZI. Do you have a copy of that letter?

Mr. HUNT. Yes, sir. I do. We presented it to the Senate in executive session.

Mr. NEDZI. Would you read it for our benefit?

Mr. HUNT. Yes, sir.

Mr. Bittman received a telegram from him the same night and could make no sense out of it at all.

The letter is dated December 6, 1972, captioned James W. McCord, Jr., 7 Windsors Court, Rockville, Md. 20850. This was delivered to me the evening of December 6 by special delivery letter. Not knowing what to do with it, I took it over to Mr. Bittman's home and called Mr. McCord from there. I will read the text of the letter.

Howard—The story put forward by the Star today to the effect that (a) I recruited Barker and associates; and (b) gave him a story that they were working for the President is probably the most dangerous and potentially destructive defenses Barker can use. As you, Barker, his friends and I know, I did not recruit them and told them nothing about the purpose of the operation. If you and he want additional Cubans and others brought into this case, then let him use this defense. Unless the fact of your recruitment of Barker, et al., is not corrected in the press very shortly I will find a way to do it. If you doubt me, just sit back and watch.

Signed "Jim".

I did not at that time understand the purport of the letter. I took it over to Mr. Bittman's house. I asked him to read it. He told me that he had received a telegram or an attempt had been made to deliver a telegram earlier to him in the evening from someone signing himself "Jim," or "Jim McCord."

I got back home, heard from Mr. Barker that he had received an absolutely inexplicable telegram from McCord, and he wondered if I could throw any light on it. I said that I was baffled. Before I left Mr. Bittman's home I called Mr. McCord at his home and asked him for an explanation. I told him I didn't understand either the text or the thrust of his letter. He was very evasive. He said, "Well, I've got other things to think about now, and I will think it over and maybe get back in touch with you," or words to that effect.

And so closed that incident.

Mr. NEDZI. Did he send you another letter?

Mr. HUNT. Unless he sent me one following the death of my wife, I have no record of any, no, sir.

Mr. NEDZI. This was about the same time?

Mr. HUNT. Well, my wife was killed 2 days later. A great many letters were received at the home, and I was out in Chicago involved with my wife's remains and various things out there. I don't know whether he sent me one or not.

That was the last time I ever spoke with James McCord by telephone, December 6.

Mr. NEDZI. Mr. McCord testified that Mrs. Hunt in a personal conversation stated that he, Howard Hunt, had just recently dictated a 3-page letter, which Hunt's attorney, William O. Bittman, had read to Kenneth Parkinson, the attorney for the Committee to Re-Elect the President, in which letter Hunt purportedly threatened to blow the White House out of the water.

Can you shed any light on that?

Mr. HUNT. I'm afraid not, sir. I never wrote such a memorandum. I can't believe my wife confiding in Mr. McCord to that extent, even had I written such a memorandum. She was most mistrustful of Mr. McCord.

I cannot believe that she would have confided anything of such a nature in him.

Mr. NEDZI. You at no time dictated a 3-page letter which Mr. Bittman read to Parkinson?

Mr. HUNT. No, sir.

Mr. NEDZI. Did you ever give Mr. Bittman any kind of letter prepared by you?

Mr. HUNT. I have given him many letters prepared by me.

Mr. NEDZI. What was the nature of them?

Mr. HUNT. Oh, letters to the New York Times, letters to——

Mr. NEDZI. Prepared in this interval from——

Mr. HUNT. From the time I retained him until the present?

Mr. NEDZI. Yes.

Mr. HUNT. Certainly. I have given him many letters to examine before they were sent out.

Mr. NEDZI. Nothing that lends itself to this kind of description?

Mr. HUNT. No, sir.

Mr. NEDZI. Mr. Bittman, do you recall any such letters that may have been given to you?

Mr. BITTMAN. I am unaware of any letter or memorandum Mr. Hunt has ever given to me that was written for Ken Parkinson.

Mr. NEDZI. Was there any letter which threatened to "blow the White House out of the water"?

Mr. HUNT. No, sir, and it is hardly a phrase I would use.

Mr. NEDZI. Mr. Hunt, are you still receiving any money from any source other than your retirement and personal investment?

Mr. HUNT. Personal investments and royalties—no, sir.

Mr. NEDZI. Have you been assured that Mr. Bittman or any other attorney you may retain, their expenses are going to be covered?

Mr. HUNT. No, sir. Mr. Bittman's fees are now being paid personally by me.

Mr. NEDZI. Do you feel that a breach of your understanding with the "Plumbers" and people you were working with?

Mr. HUNT. I feel that—yes, sir, it is a definite breach. I may at some time seek legal remedies for breach of whatever—I don't know the legal term—certainly, fees were paid to Mr. Bittman of a substantial sum and for a substantial period of time. They have no longer been paid. Nobody has been in touch with me. In the meantime, we have seen an unprecedented pulling down of the Government, if you will, and confusion reigning rampant within the CREP, Kalmbach, other people. Under the circumstances I would hardly expect even men with the best intentions would be able to, or would be willing, to step forward and cover my legal fees at this time.

I would hope eventually to have some legal recourse against the CREP, for example, for at least that portion of Mr. Bittman's legal fees that are directly traceable to his defense of me in the civil suit.

I might add I owe Mr. Bittman a substantial sum of money right now.

Mr. NEDZI. Why haven't you paid him?

Mr. HUNT. Why haven't I paid him? He hasn't pressed me, and I was in prison. In prison I can't even sign a check.

Mr. NEDZI. Was Mr. McCord responsible to you in any way?

Mr. HUNT. No, sir.

He was an employee, if you will, or an associate of Mr. Liddy's.

Mr. NEDZI. Did you have occasion to participate in the planning of the Watergate operation with him?

Mr. HUNT. As I have described it. That is to say, Mr. McCord joined the case in the Watergate.

Mr. NEDZI. Did you have any contacts with Mr. McCord in August or September?

Mr. HUNT. August or September—we are including telephone and personal contacts, sir? Would you like both?

Mr. NEDZI. Personal contacts, essentially.

Mr. HUNT. From the night of June 16, 1972, to the best of my recollection, I did not see Mr. McCord again until our arraignment in September of that year, last year.

I saw him next at indictment—or is that the reverse—I saw him shortly before trial was to begin, at a time when all the lawyers had gathered to finalize the pretrial motions.

I saw him during the 4 days of the trial, at which I was present, having pleaded guilty, on the 8th, 9th, 10th, and 11th of January. I saw him the day of sentencing, March 28 of this current year.

Mr. NEDZI. Did you talk to him about whether this was a CIA operation or not?

Mr. HUNT. No, sir, at no time.

May I indicate my further contacts with Mr. McCord?

Mr. NEDZI. Please do.

Mr. HUNT. These are telephonic in nature. In July I called Mr. McCord to complain about his employee, Mr. Baldwin, whom I felt had betrayed everyone involved, including Mr. McCord. Mr. McCord was very defensive of Mr. Baldwin. He said Mr. Baldwin had been abandoned and therefore he had every right to seek such remedies as he had. At the same time Mr. McCord complained about not having any money. I suggested to Mr. McCord he sell the van that I referred to in earlier testimony. This was a van which I had recommended that Mr. Baldwin drive far, far away, which in fact Mr. Baldwin had driven up to the front steps of the McCord house and left there. That was the substance and thrust of a telephone conversation I held with Mr. McCord last July shortly after he was released from jail.

During the autumn of last year, I had spoken with him twice. These had to do with meetings that my wife wanted to arrange with him. She was using the pseudonym "Chris" or "Christina". She had asked me to call him at his home and say Chris wants to get in touch with you. To the best of my recollection, I did this on two occasions.

On December 6, I telephoned Mr. McCord, as I have previously testified, in connection with the incomprehensible letter whose text I have read to you gentlemen.

Mr. NEDZI. How do you happen to have such a record of these calls, Mr. Hunt?

Mr. HUNT. A record of these calls?

Mr. NEDZI. Yes. I noticed you were reading.

Mr. HUNT. I have said in July, and in the autumn—why did I prepare this?

Mr. NEDZI. Yes.

Mr. HUNT. Because of Mr. McCord's allegations which all tend to indicate we were in nearly constant personal or telephonic contact, which is absolutely ridiculous.

I began at that point to attempt to reconstruct what contacts we had, both personally and telephonic. That list, to the best of my recollection, is the list I supplied you.

Mr. NEDZI. Mr. Bennett has been quoted as saying that you spoke about possibly working for the Howard Hughes Co. at one time, and also made reference to a possible break-in in Las Vegas.

Can you shed any light on that story?

MR. HUNT. I am sorry, is this from Mr. Bennett or Mr. McCord?
MR. NEDZI. Mr. Bennett.

MR. HUNT. Mr. Bennett has been quoted—in the newspapers?

MR. NEDZI. Yes, in the newspapers.

MR. HUNT. Well, that will require a little elaboration, if I may.

There came a time when, I believe it was last spring, a year ago, when Mr. Robert Bennett, who was then my employer, summoned me into his office and indicated to me that he was in possession of information. Now, I should get this in context. Mr. Bennett's office in Washington represented a part of the Howard Hughes interests on the east coast, Robert L. Mullen Co.

MR. NEDZI. When was this?

MR. HUNT. Pardon me, sir?

MR. NEDZI. Can you fix the time?

MR. HUNT. It would be very hard for me to be specific. I would say late February or March, possibly even as late as early April of last year.

I can't give you any information—nothing materialized, and it was just a matter of discussion.

In any event, Mr. Bennett indicated to me through his Nevada contact—I testified to this both before the grand jury and before the Senate in executive session—Mr. Bennett was in possession of information from Nevada sources indicating that a publisher named Hank Greenspun of Las Vegas had information concerning Muskie which would "blow him out of the water." To the best of my recollection, that was the phrase.

I passed this information along to Mr. Liddy, I believe in memorandum form.

Mr. Liddy got back to me—Mr. Liddy's office is directly across Pennsylvania Avenue from mine, communications are relatively easy—he indicated there was interest in determining just what type of information Mr. Greenspun had or knew about Senator Muskie, who at that time—now, one way we might be able to fix a time on this—this information came at a time when Muskie still looked as though he might be a live contender for the Democratic nomination. It could not have been after the time he had been defeated. That may help fix the thing in time.

Within a few days after my initial contact with Mr. Bennett, he called me into his office and introduced me to a gentleman whom he described as the chief of security for Howard Hughes interests. The man's name is Ralph Winten, he was formerly described as a former FBI person. The visit had to do at that time with the fraudulent book which Clifford Irving was attempting to peddle to a number of publishers in New York City. Mr. Winten was on the east coast trying to put an end to that, trying to unmask the fraud. He had retained an organization known as Intertel.

I received all this by way of preamble from Mr. Bennett. At that time he indicated—I had already, I believe, a day or so before, indicated that the Committee for the Re-Election of the President was interested in ascertaining what information, in fact if there was any Mr. Greenspun might have vis-a-vis Senator Muskie. When I was introduced to Mr. Winten, I asked him if he were well connected in Las Vegas, he said he was. Of course there was a great deal of

gambling there. He was at least partly responsible for the security maintenance, and he was interested in Las Vegas.

At that time I said, well, there is this rumor I had picked up from Mr. Bennett. I didn't know whether Mr. Winten had been the initial source of the information or not. It seemed likely he had been, or Intertel, his other organization had provided this information. I said:

There is a rumor to the effect Mr. Hank Greenspun has information, is boasting around Las Vegas, information sufficient to blow Ed Muskie out of the water if he becomes a candidate for the Presidency of the United States.

I said:

With your contacts in Las Vegas would it be possible for you to get any kind of verification or find out what the form of this information is? Is this just a rumor? Is it idle chatter? Is this a documentary information? What is it? I don't know Greenspun myself, I don't know if he is a man given to extravagant statements or not.

Mr. Winten said it was of interest to him, too; he did not specify. I assumed—I will do more than assume, I will speculate the Greenspun and Hughes interests had been rivals for some time. Anything he would find out he would impart the information to me at a later time. I conveyed this information to Mr. Liddy. Mr. Winten left me his business card with Los Angeles home and business telephone numbers.

It so happens Mr. Liddy and I were going to California on unrelated business, that is, business not related to the rumor about Senator Muskie. As soon as I found out about this, I called Mr. Winten and said I and an associate would be staying, I believe, at the Beverly Wilshire on such and such a day, I think it was a Saturday, and would he be available to meet with me in case there was any further progress in the matter we had discussed. I think a period of approximately 2 or 3 weeks had passed.

Mr. Liddy and I journeyed to Los Angeles. Mr. Winten came to our hotel. He indicated to us that he had heard nothing further of the alleged statement by Hank Greenspun that there was information available which would "blow Ed Muskie out of the water."

I think we parted friends, and that was the end of that.

Now, in the interim, I may have seen McCord and indicated I had met Ralph Winten, who had indicated he was the head of the Hughes security interest, and who at the same time was dissatisfied with the security services that Intertel was providing to him. I had heard that he felt their prices were exorbitant. I may have in a friendly way mentioned this to Jim McCord, who was running a security service of his own, indicating there was a possibility we might be able to get a piece of that business for him.

Mr. NEDZI. Did you, at the time of the planning of the Ellsberg break-in, prepare any memo of any kind which was sent by you through important channels?

Mr. HUNT. Before or after, sir?

Mr. NEDZI. Before.

Mr. HUNT. Yes, I prepared—Mr. Liddy and I jointly prepared a vulnerability and feasibility study on the target. We collaborated in the preparation of that. Attendant to it were the photographs, external and internal, we had taken in Los Angeles. Those were our recommendations, factfinding study, if you will, plus the photographic

material, which was forwarded or handed to Mr. Young, or given to Mr. Young, and forwarded up the line prior to the decision being made.

Mr. NEDZI. Do you know to whom that was sent?

Mr. HUNT. No, sir, I do not.

To the best of my recollection, I finished my part of it. I am a rather rapid typist and Mr. Liddy writes in longhand. I finished my portion of the report and left it with him so that the typist could blend the two when she typed his handwritten section of it.

Mr. NEDZI. Were you engaged in any kind of investigative work on the west coast other than the Ellsberg matter?

Mr. HUNT. At that juncture?

Mr. NEDZI. Yes, let's ask that question first.

Mr. HUNT. Certainly, the whole San Diego picture.

Mr. NEDZI. Did you send any memos to anybody on that occasion?

Mr. HUNT. I don't think that I did. I believe I was a contributor to the memorandums Mr. Liddy was preparing, since Mr. Liddy was principally responsible for that aspect of it.

Mr. NEDZI. He was preparing memorandum on that?

Mr. HUNT. I believe he was, sir. Let me explain. As a consultant, I really had no staff standing. I was a man, if you will, a gopher; I came and went as my services required. Mr. Liddy was a full-time employee with fixed responsibilities in that particular office, as was Mr. Young. Mr. Krogh was supervisor.

I know dozens and dozens of matters were handled by unit 16 that I never, or room 16, that I never had any information of simply because I wasn't there, or my services, talents, call it what you will, were not called for.

Mr. NEDZI. Was there any other project on the west coast which was being investigated by your team at that general period of time?

Mr. HUNT. Outside of the many ramifications of the convention security, I can recall nothing; no, sir.

Mr. NEDZI. No other cities involved?

Mr. HUNT. No, sir. San Diego—San Diego and Los Angeles.

Mr. NEDZI. Was there anything in Los Angeles other than the Ellsberg psychiatrist's office?

Mr. HUNT. That we were interested in?

Mr. NEDZI. Yes.

Mr. HUNT. We had as a possible target Dr. Fielding's residence, but that never got beyond the discussion stage.

Mr. NEDZI. There was no separate interest of any kind? This was all involving Ellsberg?

Mr. HUNT. Yes, sir.

Mr. NEDZI. Have you made any demands on anybody for sustenance, reimbursement, or payment, or attorney fees?

Mr. HUNT. Demands as such, no, sir; I have made—would you care to give me the time frame on that, sir?

Mr. NEDZI. From the time the Watergate began—any and all.

Mr. HUNT. I spoke with Mr. Colson on one occasion, indicating that legal expenses and other matters were well in arrears and should be seen to.

Mr. NEDZI. When was this?

Mr. HUNT. In November. My wife—I should backtrack a little bit and say that my wife had at this point practically declared herself

out of the negotiations—not the negotiations, but as a conduit. She was so disgusted with having been forced into a false position of telling people that their attorneys' fees would be paid them, and the money did not arrive, and so forth, she felt she did not want to be a party to this any longer.

Mr. NEDZI. What do you mean "and other matters"?

Mr. HUNT. Would you read that back, please?

[Record read.]

Mr. NEDZI. You made reference to something in addition to attorney fees.

Mr. HUNT. Attorney fees, I meant family support payments; yes, sir.

Mr. NEDZI. Well, then, Mrs. Hunt did indicate to you some concern that the money was not coming in?

Mr. HUNT. She did at one point, yes, which was the reason for my telephoning Mr. Colson.

Mr. NEDZI. As I recall your testimony, Mr. Hunt, you said she was handling all the money, and there was no concern on your part, and you had no complaints. Am I correct in that?

Mr. HUNT. Personally, we had no complaints, sir, but she had a constituency that had been forced upon her.

Mr. NEDZI. Well, was this in behalf of a constituency other than the Hunts?

Mr. HUNT. Yes, sir.

Mr. NEDZI. Was it including the Hunts?

Mr. HUNT. As far as I knew, sir, at that point, the Hunts had no problems. People who did have problems evidently—again hearsay from my wife—were the McCords, the Liddys, and the four men from Miami.

Mr. NEDZI. So when did you first make any demand as such, as far as your personal problems are concerned?

Mr. HUNT. My personal problems—not until after the death of my wife, to the best of my recollection.

Mr. NEDZI. What time frame are we speaking of?

Mr. HUNT. It would have been in March of this year.

Mr. NEDZI. So, from November to March, even though you received no payments, you didn't feel any necessity to complain to anybody?

Mr. HUNT. I don't think I so testified, sir.

I received—we go back to legal fees that were paid to Mr. Bittman.

Mr. NEDZI. Personally, you didn't receive any money?

Mr. HUNT. No, sir.

Mr. NEDZI. That did not concern you?

Mr. HUNT. Excuse me, I had to figure out a complex matter here. I did get a certain amount of money during that period of time, sir, after the death of my wife.

Mr. NEDZI. What was it?

Mr. HUNT. \$15,000.

Mr. NEDZI. How did you get that?

Mr. HUNT. That came in the form of an envelope, unopened, which Mr. Bittman told me had been received at his home.

Could I go into the envelope business, sir, after the death of my wife?

Mr. NEDZI. I wish you would.

Mr. HUNT. All right. I hadn't been invited to previously.

My wife was killed on December 8. The trial was set for January 8, I pleaded guilty well in advance of that.

I was required to stay in the courtroom the 8th, 9th, 10th, and 11th.

I posted \$100,000 cash bond. That was personal funds of mine. It had nothing to do with the committee.

There came a time following the trial, to the best of my recollection, when Mr. Bittman informed me he had received an envelope for me. I picked up the envelope and took it home to open it. I found within it the sum of between \$10,000 and \$12,000. I knew what this money was for, because my wife—this would have been one of her preoccupations. She had been asked to help the Miami Cubans form a committee to collect funds for the families. and she had been told by Mr. Rivers, or one of his associates, that seed money, as it were, would be supplied up to \$10,000 or \$12,000.

So when I opened this envelope and received and counted the money, I realized that that was what the money was for.

Mr. NEDZI. Let me interrupt. Was Mr. Rivers a pseudonym or alias, was it, does anybody know, do either of you know?

Mr. HUNT. I don't know, no, sir.

Mr. NEDZI. Is that a real name?

Mr. BITTMAN. I am sure it is not.

Mr. HUNT. I am sure it is a pseudonym.

Mr. NEDZI. Neither of you have an idea of who it is?

Mr. BITTMAN. I have an idea now, Mr. Chairman, but I didn't then.

Mr. NEDZI. Who is it?

Mr. BITTMAN. I assume Mr. Alaso, but that is speculation on my part.

Mr. NEDZI. Mr. Bittman, how did you get the money and how did you know it was to be given to Mr. Hunt?

Mr. BITTMAN. Mr. Chairman, to the best of my recollection, I received telephone calls at my home in the evening from a man who identified himself as Mr. Baker. This is not Mr. Rivers. And asked me if I would be home that evening. These calls would come in late. I would tell him I would be. He asked if I would deliver an envelope to Mr. Hunt. I told him I would. The envelope was delivered to my home, and on three or four occasions I delivered envelopes to Mr. Hunt in that manner. I called Mr. Hunt up approximately 7 o'clock the next morning. He would come to my home; I would give him the envelope unopened; he would then take it to his home.

Again I do not believe Mr. Baker is a real name.

Mr. HUNT. On the second occasion, Mr. Chairman, I received notification from Mr. Bittman there was an envelope delivered for me, I think it came late at night, I drove to his home in the morning, picked it up, brought it home, counted it, found out there was \$50,000 in it. I kept that \$50,000 in cash and issued Mr. Bittman a check or checks—I had previously—let me correct that—paid Mr. Bittman a check in the amount of \$50,000 for legal fees. So that I interpreted this \$50,000 in cash as reimbursement to me for the legal fees that I had paid in advance to Mr. Bittman. There were a total of either three or four envelopes; I am not sure about this. But the third notation that I have indicates—and this could have come in two envelopes,

sir—a total sum of \$75,000 is received, of which \$60,000 I kept in cash, having paid Mr. Bittman \$60,000 by check, in fact by two checks.

And the \$15,000 above the \$60,000 I retained for living expenses and sustenance.

Mr. NEDZI. Mr. Hunt, do you realize that the record until I asked this question actually was disclosing or reflecting a situation which was not the truth? He testified you paid him \$110,000 out of your own pocket but never testified that you had been reimbursed for that amount.

Mr. HUNT. No, sir, I don't believe the record will reflect I made such a statement. If I did, I will certainly retract it.

Mr. NEDZI. You testified that the money came from your wife's insurance.

Mr. HUNT. Yes, sir.

Mr. NEDZI. Well, let me just caution you that we may not be as fortunate in the future in asking questions to clarify the record, because I, in my own mind, am certain that is the way it stands right now, that \$110,000 was paid out of your own pocket and \$45,000 was paid out of moneys that were given to you by somebody.

Mr. HUNT. I understand your point, Mr. Chairman, and I apologize.

Mr. NEDZI. So as a matter of fact, all of the attorney fees thus far paid to Mr. Bittman have been reimbursed?

Mr. HUNT. Yes, sir. That is correct. Future fees, the sums that I owe Mr. Bittman now, will come from my own pocket.

Mr. NEDZI. Unless you come to some kind of agreement or are successful in any possible lawsuits.

Mr. HUNT. Yes, sir.

Mr. NEDZI. Or unless some envelopes come to you?

Mr. HUNT. Yes, sir, which I certainly am not expecting at this stage of the game.

Mr. NEDZI. When you spoke with Mr. Liddy—was it Mr. Liddy with whom you spoke and expressed concern about not receiving these additional moneys?

Mr. HUNT. Mr. Liddy, no, sir.

Mr. NEDZI. Mr. Colson?

Mr. HUNT. Mr. Colson.

Mr. NEDZI. All right.

Mr. HUNT. Yes, sir.

Mr. NEDZI. When you spoke with Mr. Colson, what was his response?

Mr. HUNT. Mr. Colson did really not—he didn't want to hear about the financial problem. He indicated to me in very coarse terms, and I know now that he taperecorded the conversation, so at least that much is a matter of record, that, to the best of my recollection, he indicated that he would be delighted to help me in any way he could, but the less that he knew about what had been going on, the more assistance he could be to me at some undesignated future date.

Mr. NEDZI. Did you keep him apprised of all your activities?

Mr. HUNT. No, sir. I did not.

Mr. NEDZI. Was he aware of the Ellsberg break-in before it occurred?

Mr. HUNT. Not to my knowledge, no, sir.

Mr. NEDZI. It was never discussed in his presence?

Mr. HUNT. Not in my presence, no, sir.

I had testified before other bodies along these lines, if you would like to make it a matter of record with the subcommittee, that following our return from Los Angeles I brought with me a photograph, Polaroid photograph or photographs of the open safe in Dr. Ellsberg's psychiatrist's office. I arrived early at the White House that morning. I sat in the chair in Mr. Colson's anteroom. He marched in through the door, I said "I have got something here that might be of interest to you. It has to do with my activities last weekend." He said, "I don't want to hear anything about them." Continued on at a rapid rate into his office. At that point I realized just like CIA there was compartmentation within the White House. I never attempted again to cross wires between the Special Investigations Unit and the work that I was doing for Mr. Colson.

Mr. NEDZI. Did you ever send any memos or prepare any memos for Mr. Colson?

Mr. HUNT. During the length of time I worked for him, I prepared many memorandums for him, yes, sir.

Mr. NEDZI. On what subjects?

Mr. HUNT. Kennedy, Chappaquiddick, Dita Beard, my memorandum on my conversation with Clifton DeMott, memorandums on certain aspects of the Vietnam cables, the prosecutability or nonprosecutability of Daniel Ellsberg.

If I had a chronological file I would have copies, but I have no such files here.

Mr. NEDZI. Why did you not prepare a memo on the Ellsberg matter in the psychiatrist's office?

Mr. HUNT. For him?

Mr. NEDZI. Yes, sir.

Mr. HUNT. Because he played no part in it.

Mr. NEDZI. Wasn't this related to the Ellsberg matter?

Mr. HUNT. What, sir?

Mr. NEDZI. The psychiatrist's office?

Mr. HUNT. My instructions to familiarize myself with the Vietnam—the order on the Vietnam war came from Mr. Colson. Our instructions to burglar, if you will, the Robinson—Dr. Ellsberg's psychiatrist, came from Mr. Krogh.

I had been the conduit, as it were, and everyone knew I was spending most of my time down with unit 16. I might say it has been a lifelong career practice of mine in the Central Intelligence Agency, you don't go from desk to desk offering gratuitously to fill people in on what is going on.

Mr. NEDZI. Mr. Hunt, let's go back now, because this is of some moment, as to how you first came in touch with General Cushman.

You met with Mr. Ehrlichman on July 7?

Mr. HUNT. On or about July 7, I would say.

Mr. NEDZI. And after that time you and Mr. Colson discussed the fact that Mr. Bennett had advised you that DeMott had some information about Senator Kennedy?

Mr. HUNT. Yes, sir.

Mr. NEDZI. It occurred to you that the CIA might be willing, as opposed to the Secret Service or the FBI, to issue you some disguise that you thought was necessary?

Mr. HUNT. Yes, sir. Under the terms of the elicitation Mr. Colson laid down, which was that it should not be connected with the White House.

Mr. NEDZI. At that time you asked Mr. Colson to make a contact in order to—

Mr. HUNT. No, sir, not precisely in those terms.

Mr. Colson had asked me whether or not I could call an old friend or friends at CIA and obtain these technical materials—material.

I said it would never be done for me on that basis. Whereas a call from the White House might be productive.

Mr. NEDZI. What did he say then?

Mr. HUNT. In effect, he said "I will look into it".

Mr. NEDZI. Did you make a contact with the CIA at any time, an initial contact?

Mr. HUNT. To the best of my recollection, I received a call from Karl Wagner at the Central Intelligence Agency indicating to me that an appointment had been set up to see General Cushman as a result of the call from the White House, or I so inferred.

Mr. NEDZI. You did not make a call to arrange that appointment?

Mr. HUNT. With General Cushman?

Mr. NEDZI. Yes.

Mr. HUNT. No, sir, under no circumstances.

Mr. NEDZI. How does it happen that the appointment to see General Cushman was made on July 22, and this conversation to which you refer with Mr. Colson took place a couple days after you had met Mr. Ehrlichman?

Mr. HUNT. I don't know, sir, I suppose it took that long, perhaps General Cushman was traveling. I wouldn't even speculate on it. Or it is possible, I suppose, that my recollection of the dates that I approached Mr. Colson with regard to the elicitation of information of Mr. DeMott was later than I am now presently able to establish.

Mr. NEDZI. Was there any reference to contact with the CIA in your meeting with Mr. Ehrlichman, when you met him?

Mr. HUNT. No, sir.

Mr. Ehrlichman may have said "How many years did you serve with CIA?" I may have told him. I don't recall.

Mr. NEDZI. Can you, based upon your recollection and experience, Mr. Hunt, provide some explanation of how a CIA memorandum of a staff meeting indicates that General Cushman had received a call from Mr. Ehrlichman with reference to you?

Mr. HUNT. Well, I assumed someone from the White House had called him to set up the appointment, sir.

Mr. NEDZI. Could this conversation with Mr. Colson have taken place on July 8?

Mr. HUNT. It could have, unless it was a Sunday. I don't know what the dates were.

My problem with this, Mr. Chairman, is that I don't remember when I spoke with Mr. Colson about Mr. DeMott.

Mr. NEDZI. Could it have been on July 7?

Mr. HUNT. It could have been—

Mr. NEDZI. The same day you met Mr. Ehrlichman?

Mr. HUNT. It could have been, but I doubt it.

I think I was so busy filling out papers and forms at the White House that day for going onboard I didn't return to——

Mr. NEDZI. Let me ask you again, then. Are you certain it was Karl Wagner who called you from the CIA and set up an appointment?

Mr. HUNT. It could conceivably have been one of General Cushman's female secretaries, or the office of Karl Wagner calling or something like that. I just didn't pay much attention to it at the time. The thrust of the thing was an appointment had been made for me with General Cushman. My recollection was it was Karl Wagner, whom I knew. It may have been his secretary. It may have been he.

Mr. NEDZI. It seems to me, though——

Mr. HUNT. It was not significant to me, sir.

Mr. NEDZI. What is that?

Mr. HUNT. It was not significant to me at the time.

Mr. NEDZI. Well, except you were anxious to talk to DeMott, were you not?

Mr. HUNT. Reasonably anxious to talk to him.

Mr. NEDZI. Why was there a 2-week hiatus between the time that some contact was made with the agency and your appointment?

Mr. HUNT. I can't explain that, sir.

Mr. NEDZI. Couldn't the appointment have been made at your convenience rather than the agency's under the circumstances?

Mr. HUNT. I don't think so, sir. No. General Cushman was a very senior officer.

Mr. NEDZI. The White House is more senior.

Mr. HUNT. Certain personnel are, yes.

But I certainly wasn't in any sense senior to General Cushman at any time.

Mr. NEDZI. I understand that. My problem is, why would the CIA call you on July 20, or whatever the timing was, before your meeting on the 22d, which was in dispute? It just doesn't add up.

Mr. HUNT. My only suggestion is that I spoke to Mr. Colson later in the month of July than my recollection has been able to authenticate.

I had thought that I spoke to Mr. Colson very early on about Clifton DeMott. That is, within a day or so of my going onboard. Mr. Bennett seemed to sort of have a vested interest in getting something going with regard to DeMott.

Mr. NEDZI. All the more reason why it seems to me you would have been anxious to contact somebody at the Agency for the disguise.

Mr. HUNT. Well, I explained to Mr. Colson why I couldn't contact anybody at the Agency. He said that he would look into it, and somebody did in fact look into it, because I was granted an appointment with——am I missing a point, Mr. Chairman?

Mr. NEDZI. Somebody is missing a point.

Now, did anybody come back to you and say that the matter was actually taken care of? Were you ever advised by anyone that the CIA had been contacted for you?

Mr. HUNT. Not to the best of my recollection, no, sir.

To the best of my recollection, I simply received a call from either General Cushman's secretary, from Karl Wagner's secretary, or from Karl Wagner himself, indicating that with regard to a certain

matter—I think it was couched in those euphemistic phrases—that General Cushman would see me at such and such a time on such and such a date.

Mr. NEDZI. Let me describe the timing as we have it, Mr. Hunt. Perhaps then you can see the problem that we are having.

Mr. HUNT. Yes, sir.

Mr. NEDZI. You have been contacted by Mr. Bennett who was anxious that something get going with Mr. DeMott?

Mr. HUNT. Yes.

Mr. NEDZI. Our record discloses that Mr. Cushman reported a call from Mr. Ehrlichman with reference to you on the morning of July 8.

Now, nobody ever contacted you about that?

Mr. HUNT. To the best of my recollection, sir, somebody at the Central Intelligence Agency called me and said that there was an appointment—

Mr. NEDZI. This is the appointment, but the call came to you for the appointment somewhere around July 20, or 2 days before you actually went down there. You didn't set an appointment 2 weeks in advance, did you?

Mr. HUNT. No, sir; no, sir.

Mr. NEDZI. So somebody from the Agency called about the 29th. I am trying to figure out just why you have that kind of time gap. It isn't a reasonable, or normal way to operate.

Mr. HUNT. May I consult with counsel? I am afraid I am confused at this point what the issue is.

Mr. NEDZI. Sure. The issue is as to who called whom with respect to your meeting at the CIA.

Mr. HUNT. We are discussing now, roughly a 12-day gap, are we not, sir?

Mr. NEDZI. Yes.

Mr. HUNT. The only explanation that comes to my mind is that during that period of time if the call was made to General Cushman on the 8th, and yet I was not granted an appointment until the 20th, it may have taken that long for my clearances to be established with the Agency or to the satisfaction of the Agency.

Mr. NEDZI. There is nothing—I can, for your benefit, indicate that there is no question about your clearances expressed by the Agency—

Mr. HUNT. Yet I was subject—

Mr. NEDZI [continuing]. At any time.

Mr. HUNT. I was subjected to a full field examination by the Bureau when I went onboard the White House again.

Mr. NEDZI. By the FBI?

Mr. HUNT. Yes, sir.

Mr. NEDZI. I don't think there is any question the word of whoever contacted General Cushman was accepted as valid clearance as far as you are concerned.

I might also indicate that in your conversations with General Cushman you mentioned Ehrlichman. And General Cushman asked you to convey his regards to Ehrlichman.

Mr. HUNT. That may have been a piece of proviso on my part, one always likes to indicate they are setting a little closer to the seats of the mighty than one is.

Mr. NEDZI. You really can't shed any more light than you have at the moment of this incident?

Mr. HUNT. No, sir. I have no knowledge of who called General Cushman on my behalf.

Mr. NEDZI. You can not recall arranging the appointment yourself?

Mr. HUNT. No, sir, I can not.

Mr. NEDZI. That is the part that is troublesome to us. Our record doesn't disclose anything about the Agency having made the initial call to you.

Mr. HUNT. Well, sir, just as a matter of ordinary Government protocol, it seems to me that when my superior, Mr. Colson, had said he would look into the matter, that that shifted the burden or the responsibility for the liaison, or whatever it was, to him. There was no further role for me to play; mine was nothing other than a waiting one. Which I did. In due course I received a telephone communication.

I then went and saw General Cushman.

Mr. NEDZI. No one ever suggested to you it was General Cushman you should see and not anybody else?

Mr. HUNT. No, sir; no, sir.

Mr. NEDZI. An appointment was set up for you to see Cushman?

Mr. HUNT. Cushman—yes, sir.

Mr. NEDZI. Why did you suggest [deleted] as the individual to serve as your secretary?

Mr. HUNT. She had worked in the French branch during my last couple of years at CIA. She was a very, very hard-working young woman who was unattached, quite plain. She did not have suitors or boyfriends that I knew of. The work that we anticipated at the White House was going to call for long, long hours. And an attractive young girl would not fill that bill. She would have a boyfriend waiting that sort of thing. We needed girls, frankly, who were dedicated to their jobs.

Mr. NEDZI. Couldn't you express, or describe the specifications for the job in those terms to the Agency, rather than a specific individual that would be imported from France?

Mr. HUNT. Well, I had seen [deleted] work for a while. I knew she was a fanatic worker to begin with, and that she scored very high with the previous boss. She had been given a plum post in Paris.

That is all I can say. I haven't been in the service for a great many years. I have known sometimes when I ask for a body by name, you are likely to get that body, whereas if you ask for somebody under a rather wide spectrum of specifications, you might get something that is not—that is rather far from what you are seeking.

Mr. NEDZI. Why was Liddy described by a pseudonym at the time you took him along to the Agency for some of the Agency documents?

Mr. HUNT. Need to know basis. The Agency had no need to know his true name. After all, we were all dealing in pseudonyms. I didn't know the names of the CIA people we were dealing with.

Mr. SLATINSHEK. Mr. Hunt, if I may, you indicated that the people, your contacts with the CIA, were providing you with technical assistance. There are two identities not known to you. Or did you assume they were using pseudonyms, or did you know they were using pseudonyms?

Mr. HUNT. When you use one name, you assume one man's name was Cleo, another man's name was Steve, you just assume those are pseudonyms. Operational alias is the correct term.

Mr. SLATINSHEK. Yes. I am a little bit puzzled by their purpose in having pseudonyms at all in that all they were supposed to provide you with was a little technical assistance, and in that sense there was no need to be covert about it in any sense at all.

Mr. HUNT. My name was not given them either.

Mr. SLATINSHEK. No. I just find it strange. But you find no other reason for it but it is the usual practice, and they simply followed routine?

Mr. HUNT. Usual practice, or it might have been some sort of a new stipulation enforced by the then new head of the Technical Services Division, with all of his personnel that had contact with non-Agency types, operated solely on a pseudonymous basis.

Mr. SLATINSHEK. Let me digress a moment from the line of questioning and clear up one item in the record I think ought to be responded to.

We were going over the envelopes that you had mentioned getting, the three envelopes.

Mr. HUNT. Yes, sir.

Mr. SLATINSHEK. You mentioned three increments of money.

Mr. HUNT. Yes, sir.

Mr. SLATINSHEK. You advised the subcommittee that the latter two, the \$50,000 and the \$75,000, a portion of them took care of the fee, and you retained \$15,000. You mentioned the first envelope as containing \$10,000 or \$12,000. I don't think the record reflects what you did with it. You indicated it was seed money for the Cubans.

Mr. HUNT. Yes, sir, that is correct.

Mr. SLATINSHEK. Can you tell the subcommittee what you did with that money?

Mr. HUNT. Yes, sir, I would be glad to. One of the sparks, the leading figures, of the Miami-based committee, was a man named—is a man named Manuel Artime.

Mr. Artime had been one of the leaders of the Cuban invasion brigade, had been in prison for 13 months, and ransomed finally by the United States. He became a very successful businessman, an importer-exporter of meat products, mainly seafood in Miami.

The seed money I turned over to him at a time when—I should explain also he was the godfather of my youngest child. He was up visiting his godson. It was just about this time, the \$10,000 or \$12,000, whichever it was, was received in this envelope which I turned over to Mr. Artime at that time to take down and put in the coffers of the committee.

Mr. NEDZI. Your interview with Colonel Conein, did you request the Agency to clear this interview in any way?

Mr. HUNT. No, sir.

Mr. NEDZI. Was it a direct contact with you?

Mr. HUNT. No, sir, it was a direct contact by me. Neither of us had any further involvement with the Agency.

Mr. NEDZI. At this time, the only item which you received from the Agency, which has not been returned or confiscated by somebody else, is the tape recorder?

Mr. HUNT. That is right, yes, sir.

Mr. NEDZI. Are you prepared to return that?

Mr. HUNT. Yes, sir, I attempted to on a prior occasion. I was told it had already been written off.

Mr. NEDZI. More redtape to put it back on?

Mr. HUNT. Pardon me, sir?

Mr. NEDZI. I said it would be more redtape to put it back on than it is worth, is the theory.

Mr. HUNT. Is it your desire, Mr. Chairman, that that be returned to the Agency? I don't know how they would handle it. It has never been used in anything illegal. It is not an exhibit.

Mr. NEDZI. It is Government property, and I think it would be appropriate for it to be returned.

To your knowledge, did Mr. Ehrlichman have any knowledge of this Ellsberg break-in?

Mr. HUNT. My personal knowledge, sir, I have no personal knowledge that he did.

Mr. NEDZI. Did anyone ever tell you that he did?

Mr. HUNT. No, sir.

Mr. NEDZI. There was no conversation of any kind with anybody, you saw no papers or anything—

Mr. HUNT. No, sir.

Mr. NEDZI [continuing]. To suggest that?

Mr. HUNT. I testified before the Los Angeles County Grand Jury that when our final plans were prepared, they were submitted to Mr. Krogh, and Mr. Krogh indicated that he would take them under advisement for a period of time, which he did. Then came the go-ahead. I had assumed Mr. Krogh did not simply go up in a mountain and ponder the matter himself. That is inferential, again.

Mr. NEDZI. To get to the Watergate again, what was your understanding as to the information which you were seeking to obtain?

Mr. HUNT. I can only speak for the documentation angle, sir, I can't speak for the electronic aspects.

It was rumored, certainly, in the Miami-Cuban colony, and I believe information input into the committee, perhaps from the FBI, perhaps from the Internal Security Section of the Department of Justice, indicated that there was a likelihood that foreign funds were being channeled into the opposition party or the opposition candidates. Our task was to see whether or not any suspicious-looking amounts of money or suspicious donors or suspicious conduits could be determined. And that was the purpose of the photography mission.

Mr. NEDZI. Do you have any idea as to whom the logs on the electronic results were to be given?

Mr. HUNT. I did not know at that time, no, sir.

I can speculate since in the light of a great deal of media speculation on the subject. I think Mr. Magruder indicated he was one of the recipients. I did not know at the time.

Mr. NEDZI. In this operation you were responsible to Mr. Krogh?

Mr. HUNT. The Watergate operations?

Mr. NEDZI. Yes.

Mr. HUNT. Mr. Krogh had nothing to do with Watergate.

Mr. NEDZI. Mr. Liddy?

Mr. HUNT. Mr. Liddy.

Mr. NEDZI. Were you ever told by Mr. O'Brien Watergate was a CIA operation?

Mr. HUNT. No, sir.

Mr. NEDZI. Did the Cubans, on this mission, ever express any misgivings about the legality of the project?

Mr. HUNT. No, sir—because I represented the White House to them.

Mr. NEDZI. How was the mission represented to them?

Mr. HUNT. As a factfinding mission. We are speaking of Watergate now, not Ellsberg.

Mr. NEDZI. Yes.

Mr. HUNT. As a mission to determine whether there was an influx, an inflow of foreign funds into the DNC, probably, most probably from Cuba.

Mr. NEDZI. Did you make that representation to them?

Mr. HUNT. Yes, sir.

Mr. NEDZI. Mr. Hunt, has there been any conversation, or any suggestion of any kind to you with respect to Executive clemency?

Mr. HUNT. At no time, no, sir.

Mr. NEDZI. The subject has never been raised?

Mr. HUNT. Only in the press. To me personally?

Mr. NEDZI. Yes.

Mr. HUNT. No, sir.

Mr. NEDZI. By no one. Was it ever discussed between the prisoners?

Mr. HUNT. I would be unable to say.

Mr. NEDZI. Did your wife ever talk to you about Executive clemency?

Mr. HUNT. No, sir.

Mr. NEDZI. Did you regard Executive clemency as one of the possibilities in light of the kind of concern a clandestine organization has for its employees?

Mr. HUNT. Would I have?

Mr. NEDZI. Did you?

Mr. HUNT. Did I?

Well, frankly, sir, I never expected to see the thing get as far as the trial. When my wife was killed, I simply gave up thinking and pondering the matter. I don't think about it any more.

Mr. NEDZI. Executive clemency was not one of those things you thought about before you pleaded guilty?

Mr. HUNT. No, sir. This term is a rather loose term.

It is nothing that I dealt with mentally.

Mr. NEDZI. Mr. Dean has testified you wrote to Mr. Colson and asked him to meet with Mr. Bittman, at which meeting Executive clemency was discussed. Did you ever tell Colson—write Mr. Colson about clemency?

Mr. HUNT. I wrote Mr. Colson on one occasion, following the death of my wife—to thank him—I'm speaking of the letter following the death of my wife, when I asked him if he would see Mr. Bittman. I wanted to thank Mr. Colson for his courtesies and good wishes, on the occasion of the death of my wife. I wanted at the same time that he hear the rationale for my plea of guilty from Mr. Bittman, my counsel. I understood that Mr. Colson, for reasons of his own, did not want to see me under any circumstances.

I was quite concerned about a pension that I had. I wanted Mr. Bittman to discuss that matter with him. And also there was the question of the motion to suppress, which had come up, and involved the violation of my safe by Mr. Dean and his minions.

Mr. NEDZI. Is that all that was discussed?

Mr. HUNT. I was not present at the meeting.

Mr. NEDZI. Mr. Bittman, can you shed any light on what Colson said at that time?

Mr. BITTMAN. At that time, Mr. Chairman, I had two meetings with Mr. Colson. One on January 3 and one on January 4.

I did have extensive discussion with Mr. Colson about the motion to suppress, about the fact that we had heard that one of the prosecutors was checking the legality of having Mr. Hunt's pension revoked. We discussed the plea of guilty. We discussed the health of his family. How everything was going in view of the death of his wife.

And, Mr. Colson made known to me in very strong terms that he was very unhappy that other people had gotten Howard Hunt involved in the Watergate case. That he was, in effect, a great American. This whole thing was a personal tragedy to him, and he wanted me to know and wanted me to tell Mr. Hunt he would do anything within his power at any time on a personal basis to help Howard Hunt whether he was in or out of the White House at the time.

Mr. NEDZI. Did you understand that to include an effort at clemency?

Mr. BITTMAN. Well, of course, that conversation was in January. The decision had been made for Mr. Hunt to plead guilty. I certainly knew the sentencing would not take place for some time. And, I certainly am very very familiar with Executive clemency. I have gotten Executive clemency for an individual. I know that three affidavits have to accompany the petition. In the event Judge Sirica gave Mr. Hunt a sentence which I would consider to be unconscionable and in view of Mr. Hunt's service to the country, his family problem, his personal health situation, many, many compelling reasons I would have had no reluctance to ask Mr. Colson to be one of the three affiants that have to be requested—I wouldn't say affiants, but to furnish motion for a petition for Executive clemency. That Executive clemency as such was not discussed.

Mr. NEDZI. Was it your feeling at that point he would have been willing to accommodate you in that regard?

Mr. BITTMAN. I think to a great extent it would have depended on what the sentence would have been. As you know the sentencing did not take place until March 23.

Mr. Colson had a very strong feelings about Mr. Hunt's dilemma. And he felt very badly about it. And he used some very strong terms in describing those individuals in a hypothetical manner that got him involved in it. He was very upset about it.

No doubt in my mind, he would have helped him in any manner whatsoever. He even indicated if Howard Hunt went to jail, he would take Mr. Hunt's children into his own home. Mr. Hunt had a 9-year-old boy. And there was no doubt in my mind that he was very sincere when he made those statements to me.

I might also add, that he did send a very long letter to the probation

officer, subsequent to Mr. Hunt's plea of guilty, which certainly was very favorable to Mr. Hunt.

So Mr. Colson was not taking a do-nothing position. That letter to the probation officer followed my conferences with him.

It was a very long letter, and a letter that I'm sure was very helpful to Mr. Hunt.

Mr. NEDZI. Was there any part of this conversation that you had with Colson conveyed at any time to Mr. Alch, or any of the attorneys for the other defendants?

Mr. BITTMAN. No, sir.

I only discussed that conversation with Mr. Hunt.

Mr. NEDZI. Did you ever, Mr. Hunt, have any contact, direct or indirect, with Mr. Caulfield?

Mr. HUNT. No, sir. You are referring to Mr. Caulfield who appeared on television in the Senate hearings? Jack Caulfield?

Mr. NEDZI. I can't recall whether he appeared or not. I believe he did.

Mr. BITTMAN. He did.

Mr. HUNT. If that is the one, I know. The one associated with Mr. McCord; no, sir.

Mr. NEDZI. Do you have any questions?

Mr. HOGAN. I have a couple I thought I would ask if I may, Mr. Chairman.

Mr. Hunt, did you in January 1973, in Miami, exert pressure on the Cuban Americans involved in the Watergate, to have the Watergate matter at CIA doorstep?

Mr. HUNT. May I just have the first part of that?

Mr. HOGAN. It was January 1973. The allegation also states it happened in Miami, and that you exerted pressure on the Cuban Americans involved to lay the Watergate matter at CIA doorstep?

Mr. HUNT. To the best of my recollection, I was not in Miami at that month, sir.

Mr. HOGAN. All right, if you weren't in Miami, did you make an attempt in January 1973—

Mr. HUNT. At no time; no, sir.

Mr. HOGAN. At no time.

Were you aware of a plan to attempt to restore McCord to active service in the CIA in order to associate him with the CIA, with the Watergate matter?

Mr. HUNT. Not until he made that allegation in public form; no, sir.

Mr. HOGAN. McCord also made a statement, Mr. Hunt, that you had information that would be sufficient to impeach the President.

Will you comment on that? Whether you made such a statement?

Mr. HUNT. A, I don't have that kind of information; B, I did not make the statement.

Mr. HOGAN. In connection with the CIA ploy to involve them in the Watergate matter, were you aware of any attempts by Mr. Alch along these lines?

Mr. HUNT. No, sir.

Mr. HOGAN. Were you, Mr. Bittman?

Mr. BITTMAN. Along what lines, Mr. Hogan?

Mr. HOGAN. To attempt to involve CIA with the Watergate matter.

Mr. BITTMAN. Mr. Alch was present on one occasion, maybe more,

when we discussed the possible CIA defense, in a very preliminary manner. And I'm aware of Mr. McCord's allegations that go beyond that, that Mr. Alch discussed the possible fabrication or doctoring of the personnel records of the CIA, and that the CIA director would go along with it. I was not present at that conversation, but I have had extensive dealings with Mr. Alch in the Watergate case, and in my opinion, Mr. McCord is not telling the truth.

Mr. HOGAN. Mr. Hunt, I have heard of your reasons for entering a plea as to the charges against you. But was your plea in any way prompted or promoted by a coverup?

Mr. HUNT. No, sir. I can go further than that.

I can say at the time I informed my attorney that I was under no circumstances going to go through the ordeal of a trial. He said he understood. He also informed me that I would undoubtedly be called before the grand jury to testify as to my knowledge of the facts of the case. At the same time, with the Ervin committee hearings then in view, that I would most likely be one of the principal witnesses before the public forum.

Mr. HOGAN. Now——

Mr. HUNT. Have I answered your question, sir?

Mr. HOGAN. With regard to Dean's statement made public. He said you wanted \$122,000 or you would have a lot of seedy things to say about certain White House matters.

Did you ever make such a statement? Or such a demand, I should say?

Mr. HUNT. For how much money, sir?

Mr. HOGAN. \$122,000, or any amount. Or you would have a lot of seedy things to say about certain White House matters.

Mr. HUNT. This is an allegation that has troubled me very much, ever since it was first voiced. It has not only been voiced; it has been printed a good many times.

It has also been so twisted as to indicate in the public mind at least that I have attempted to backmail \$1 million from the President of the United States. I find both of these allegations very, very difficult to counter in any way.

I had felt in my conversations—such conversations as I had with Mr. O'Brien, for example, of the party; I spoke on one occasion with Mr. Shipiro, who was Mr. Colson's counsel.

I felt by reiterated reminders I could awaken within them a feeling of obligation, if not appreciation, for work that we had done before. In other words, we hadn't done just Watergate for our principals who were after all among the highest officials of the land. We had gone beyond in that we had done so earlier. And it was not in the sense of a threat, because after all I hold everything. I think I was going to be telling everything just as I am today. But I had thought somewhere along the line people should be considering taking of those of us who were about to be jailed.

And to that end, I reiterated the fact that we had done other things than simply break into the Watergate.

Mr. HOGAN. What other things?

Mr. HUNT. Well, I was thinking principally of the Ellsberg affair.

Mr. HOGAN. Anything else?

Mr. HUNT. Well, I felt, for example in my own case, the journey

that I made to [deleted] could be misconstrued. I was not one to want to misconstrue it. That could all be embarked upon by Jack Anderson, the columnist.

Mr. HOGAN. Did you ever mention any amount of money?

Mr. HUNT. Certainly never to Mr. Dean.

I had suggested I believe—at that time I spoke to Mr. Paul O'Brien. I indicated that I owed Mr. Bittman approximately \$60,000 in legal fees, more were on the horizon. I was about to be incarcerated, and I felt that some provision should be made for my family at that time before I was sent away so I could dispose of the money in a sensible fashion—that is, allocate it before I was actually behind bars where I no longer even had the right to sign a check.

Shortly after that period of time, \$75,000 did, in fact, arrive.

Mr. HOGAN. So you were indeed thinking of your family at this time and concerned about your family.

Mr. HUNT. Earlier you had indicated Mr. Hunt it was mainly the needs of others that were causing the concern, rather than your own subsistence?

Mr. HUNT. I didn't mean to put that entire face on it, sir.

My wife had the principal responsibility for everybody. I felt, after her death, an obligation for her constituency, if I can put it that way.

At the same time, when the stark fact of my own conviction, upcoming sentence, faced me. I realized that I, too, would have to do something about the debts that were mounting. And so I made a request. After all I had been given to understand as far back as last summer that assistance would be forthcoming, that legal fees would be paid, subsistence would be paid and now we were—That was within 2 or 3 or 4 days of being sentenced. I felt this was the maximum time, the optimum time, the optimum time when some last gesture could be made.

Mr. HOGAN. You had a tour of duty as the top man in Mexico City, was it there?

Mr. HUNT. Yes, sir.

Mr. HOGAN. Were you involved in any way in the Mexican money laundry situation?

Mr. HUNT. No, sir.

Mr. HOGAN. Did you offer any advice to anybody in the matter?

Mr. HUNT. No, sir, I knew nothing about that.

Mr. HOGAN. Recently in the press there has been a report Mr. Colson directed you to go to Milwaukee and break into the Bremmer home subsequent to the shooting of Governor Wallace within a matter of hours, as I recall. Could you discuss that with us for a moment?

Mr. HUNT. Yes, sir, I can.

I have seen Mr. Colson's version of the event, of course. I have testified also.

I believe my first testimony has placed Mr. Colson's request as coming to me on the day after the Bremmer shooting—do you have a recollection of that?

Excuse me one moment, please.

I may have made a statement to the Senate staff in executive session, we have not had a chance to go over the transcript. I will testify to the best of my recollection along these lines. The day following the shooting—to the best of my recollection there was no immediate iden-

tification—public identification of Arthur Bremmer as such, much less his place of residence and so forth. He was just a man, I remember watching that evening, seeing television photographs of him being dragged away from Governor Wallace.

To the best of my recollection it was the following day I received a call from Mr. Colson, and went to his office, at which time I think his first question of me was, have you ever been to Milwaukee?

I said, No, I have never been there.

He said, do you know anybody there?

I thought back to college days, and I could think of half a dozen prominent people from Milwaukee that I knew. And he said, well—

I said, why?

He said, well, he said, evidently some kind of a kook is involved in this attempt to kill Governor Wallace. Could you go out there to Milwaukee for us on the next plane or as soon as possible and look into the guy.

He said, don't forget, when Oswald was hired to assassinate President Kennedy everybody said it was a big right wing plot. That is what we replay from the industry. When Martin Luther King was shot, he said, this was also supposed to be a great right-wing, American fascist plot.

He said, we don't know anything about this man at all.

He said, his name is Arthur Bremmer.

He said, would you be willing to go out there, locate his apartment and see what you can find?

And, I said, well, how soon do you want me to go?

He said, right away.

So, I went home and thought it over a little bit. I put a couple of things haphazardly in a small suitcase.

Either Colson or the White House operator called me and I called him back. I was having some difficulty getting flights to Milwaukee out of National or Dulles Airport. There was going to be a time delay of several hours. At that juncture, I began to hear over the radio increasing reports about how newsmen had been in the flat, how certain materials, oriented material had been picked up by the press and they were commenting on it. The landlady I guess or the landlord finally blocked off the premises and wasn't letting anybody else in. So it would seem to me as reconnaissance operation was over with before it even had begun. That is to say, people that had free access to the place for hours, 24 hours, let's say, and that there was little to be accomplished by my going there, and when Colson and I next discussed the subject, either he called me from the White House or I called him to say that I thought that the ground had been too well trod by now. He indicated, yes, in any event, the FBI had the place staked out, it was true the reporters had gone, had free access to the place, and so we just will forget about it.

Mr. HOGAN. He was, however, suggesting at the outset a surreptitious entry, wasn't he?

Mr. HUNT. Yes, sir, although it wasn't couched in those terms. He said could you go to his apartment and look around?

Mr. HOGAN. How else?

Mr. HUNT. The door could be open. How did the newspaper reporters get in?

Mr. HOGAN. That is after the fact, Mr. Hunt. I'm getting back to the conversation with Mr. Colson about going up there. Did you get the idea he expected you to break in?

Mr. HUNT. I had personally no capability as a locksmith, or lock and key man. My method of entrance, if I gave it more than two thoughts, would have been simply see if I couldn't borrow a key from the janitor and go in that way and just take a look around and try to find out what the guy's political orientation, if any way, on the basis of booklets, pamphlets or anything like that he might have in the area, and simply depart.

Mr. HOGAN. To put it kindly, I won't pursue this, it would have been a trespass?

Mr. HUNT. Yes, sir, it would have been.

Mr. SLATINSHEK. At this point, Mr. Hogan, may I pursue this a little further. You mentioned Watergate was only one of a number of other things you had done for them. You mentioned Ellsberg.

Were there any other illegal entries, entries which could be construed as illegal?

Mr. HUNT. Entries?

Mr. SLATINSHEK. Yes.

Mr. HUNT. We have Watergate 1 and 2, and Ellsberg, there are no other entries, no, sir.

Mr. SLATINSHEK. None at all?

Mr. HUNT. None at all. Unless you construe my assertion and Thomas MacGregor as an agent in Government headquarters that sort of thing. You mean actual physical entry, no, sir, I'm not aware of any.

Mr. HOGAN. Thank you.

Mr. NEDZI. Mr. Hunt, do you know Officer Gary Bittenbender of the Metropolitan Police Department?

Mr. HUNT. No, sir.

Mr. NEDZI. Do you know anything of the efforts to persuade him to testify at the time of the arrest McCord told him Watergate was a CIA operation?

Mr. HUNT. No, sir, my first knowledge of that allegation came about when Mr. McCord was testifying before the Senate.

Mr. NEDZI. Mr. McCord also indicated that you had information sufficient to impeach the President, you had indicated you had information sufficient to impeach the President. Did you ever make that statement?

Mr. HUNT. No, sir.

Again, I would like to, if I might, go over the very few contacts I ever had with McCord, as a matter of record. I saw him—he was out of jail, after the arrest—I saw Mr. McCord at the arraignment, at the indictment. I saw him very briefly outside Mr. Bittman's office at the time the lawyers were preparing a great many trial motions. I saw him at the trial, in the corridor, at the trial at 8th, 9th, 10th and 11th of January this year, and I saw him at the sentence March 23. I held no conversations with him at any time.

Mr. NEDZI. Did you ever treat him coldly when you left?

Mr. HUNT. Yes, sir, I would say that. I was always dissatisfied about his—dissatisfied with his defense of Mr. Baldwin. I had strong

suspicious that at that time—and I have had suspicions continue to develop of Mr. Baldwin's plant on a gullible McCord.

Mr. NEDZI. By whom?

Mr. HUNT. Either by himself or the Democratic Party. This sounds far-fetched.

Mr. NEDZI. Mr. McCord? You say planted by himself?

Mr. HUNT. No, that Baldwin volunteered for the job with McCord, saw what it involved and decided to exploit it not for the benefit of the Republican Party but for the benefit of the Democratic Party. He planted himself on a gullible McCord. It developed later McCord knew nothing about Baldwin, very substantial Democratic connections in the State of Connecticut.

Mr. NEDZI. Did you, in March, speak directly or indirectly with Mr. O'Brien?

Mr. HUNT. Yes, sir; I did.

Mr. NEDZI. Did you speak directly to him?

Mr. HUNT. Yes, sir; I did.

Mr. NEDZI. What was the substance of that conversation?

Mr. HUNT. Well, it had to do with my forthcoming imprisonment. The fact that I owed substantial bills. That I had no income except a small pension. And that I thought if my sponsors were going to keep the assurances that had been made, made the previous summer, now was the time to do it. Within a few days, look and behold, \$75,000 arrived.

Mr. NEDZI. Is that what you asked for?

Mr. HUNT. I told him what my legal bills were. I think I told him, also, that I would like to have \$10,000 or \$20,000 in the bank to take care of the children before I went away. As I recall the figures that would have been what, up \$80,000. I got \$75,000.

Mr. NEDZI. Was there any other money you received since then?

Mr. HUNT. No, sir.

Mr. NEDZI. Was this money given to you directly?

Mr. HUNT. I beg your pardon.

Mr. NEDZI. Did you receive this money directly?

Mr. HUNT. No, sir; this was the ultimate of the envelope that came through Mr. Bittman.

Mr. NEDZI. To your knowledge was John Mitchell involved in anyway in either the request for funds or the raising and delivery of money to you?

Mr. HUNT. I have no personal knowledge of that, no, sir.

Mr. NEDZI. Did you play any role in promising any of the other defendants any kind of payment?

Mr. HUNT. No, sir. Promising, no.

Mr. NEDZI. You never talked to any of them?

Mr. HUNT. I talked to the defendants certainly.

Mr. NEDZI. About money?

Mr. HUNT. The four men from Miami are the only ones I ever discussed money with at any time.

Mr. NEDZI. What form did that discussion take?

Mr. HUNT. We discussed the formation of a committee in Miami. The committee in Miami was going to be the operative mechanism that would take care of their families.

This has been I think in process since November—November last year.

Mr. NEDZI. Did you ever call Mr. Colson after the Watergate thing and tell him to remove anything from your safe?

Mr. HUNT. No, sir.

Mr. NEDZI. Did Mr. Colson have access to your safe as a general rule?

Mr. HUNT. I will have to answer that this way, if you will permit me, sir.

At the time that I was—at the time I was assigned to the room on the third floor, I asked to have a two-way combination safe put in, because I knew they would be holding sensitive materials, particularly the Vietnam cables, and tables, and so forth. A safe was delivered. The Secret Service set the combination of that safe. I was given the combination for my use. Secret Service unit in the White House kept another copy of the combination, and Mrs. Joanne Hall, who was Mr. Colson's executive assistant, had another copy of the combination.

I know she did because on one occasion before I became thoroughly familiar with the combination I came in on Saturday morning and she had it in her Roladex.

Mr. NEDZI. Mr. Hunt, I'm going to have to recess for 10 minutes again. We are coming to the end. I wish we could finish before I leave but I don't think we can. It shouldn't be more than 15 or 20 minutes. We will just take a break for 10 minutes.

Mr. HUNT. Thank you, sir.

[Short recess taken.]

Mr. NEDZI. Mr. Hunt, Mr. McCord became irritated by a story in the Washington Star which according to him prompted his letter to you.

Mr. HUNT. The letter I read into the record, sir.

Mr. NEDZI. Yes.

Of December 1972.

His concern was that you or somebody in your behalf had planted this story in the Washington Star. That McCord had the Cubans arrested in the Watergate.

Is there any factual basis for his assumption?

Mr. HUNT. No, sir, none at all. I would suggest it might form a part of the paranoid of which his previous lawyer, Mr. Alch, has alluded.

Mr. NEDZI. Did you know Mr. Segretti?

Mr. HUNT. In a sense I knew him, but I did not know him, I knew him as Donald Simmons, a man who was working in a parallel line of activity.

Mr. NEDZI. For the Committee to Re-Elect the President?

Mr. HUNT. I did not know who his sponsors were.

Mr. NEDZI. What was your relationship with him?

Mr. HUNT. There came a time, sir, last spring, a year ago, when Mr. Liddy, who was then with the Committee for the Re-Election of the President, informed me that the Republican National Committee had heard from several quarters that a young man answering the same physical description in each instance had attempted apparently to penetrate or to align himself with the headquarters in different States.

As a result, a sort of a handbill had been passed out by Republicans saying watch out for this man.

I believe that the CREP was sending out such a general notice to the Republican people to be aware.

Shortly thereafter Mr. Liddy came over and said would you believe it, I just got word to call off the handbill because this guy is working for somebody else?

He said, and, moreover, he said, we have been asked to appraise this fellow and see if he is of any value to anyone. Further, to try to monitor him and keep him out of trouble.

Mr. NEDZI. Who did you understand somebody else to be?

Mr. HUNT. He did not specify, sir.

I assumed Mr. Magruder at that time was his principal, and I assume he was taking instructions from Mr. Magruder. Are you interested in this story? It is very long and rather boring.

Mr. NEDZI. Yes. Did you have any meetings with him relative to campaign activities?

Mr. HUNT. Yes, sir.

Mr. NEDZI. How frequently?

Mr. HUNT. He would call me by telephone a couple of times a week, wherever he was in the country. I should say to explain the basis for our relationship, that Mr. Liddy and I were sent down to Miami to talk to Mr. Don Simmons, as he called himself. Who was staying at the Frolics Motel at that time. Mr. Liddy had been given information by someone else as to how to contact him. Simmons or Sagretti as I will hence forth call him was expecting our arrival. He indicated that he was involved in some sort of college level pranks—inviting people to a nonexistent Lindsay Rally. This was in the area of preliminary to the Florida primaries I would say. He was having posters printed up. It was a wild melange of activities none of which sounded very serious or very worthwhile.

Mr. NEDZI. Did you discourage him at all?

Mr. HUNT. Pardon me?

Mr. NEDZI. Did you discourage him at all?

Mr. HUNT. That was not our mission. Our mission was an evaluative one at that point. We simply listened to what he had to say. We knew we had been sent down to in effect examine the product, or his conduct, inasmuch as he had been of course, he can become a cropper, because he had come to the notice of several Republican committees, and his name was put on sort of a wanted list. He was well aware of our purpose down there. When Mr. Liddy and I returned to Washington, I don't know to whom Mr. Liddy reported, perhaps, more than likely to Mr. Magruder. We thought this was probably a harmless, very ineffective, young man, whom we wanted nothing to do with at all. The word came back through Mr. Liddy that he had good friends in the committee, or in the administration, I can't recall which, and they wanted to help him on. Maybe he could do some good. But would we keep an eye on him and try to keep him out of trouble.

That was the brief that we had. Accordingly, I had an answering service telephone and a number for him in the Los Angeles, southern California, area. He had my private number at the Mullen Co.

Liddy had his mailing address which I think was out in Balboa Beach. That was about it. He formed a rather annoying habit of checking in with me a couple of times a week; maybe his principal had so instructed him. He would say what is up, I would say nothing;

he would say fine, I'm ahead of you, goodbye. A ridiculous conversation. He would say he was coming into the Statler, could he stay for a day or so, could he see me? If we would, I would go up to the Statler. He knew me under a different name of Jed Warren. We would chat a little bit. He would say I put out a poster in Tampa last week, the scheduling thing went off badly for Muskie and so forth. As far as I was concerned, it was dribble.

Mr. NEDZI. Mr. Hunt, what was the source of the \$10,500 which was found in your wife's purse?

Mr. HUNT. \$10,000 of that \$10,500 was money received over the fall, I assume, from our supporters.

We wanted to put that to work for ourselves in this business engagement or deal that had been suggested by her cousin's husband in Chicago.

Mr. NEDZI. They are the ones with whom you stayed?

Mr. HUNT. That is correct, at the Carlsteads'.

Mr. NEDZI. What was your general perception of the role of Mr. Haldeman?

Mr. HUNT. I had no perception of it, sir. I was not at that level in the White House that I could form an opinion one way or another.

Mr. NEDZI. How about Ehrlichman?

Mr. HUNT. I had met Mr. Ehrlichman only once. I knew that he was the domestic counsel to the President, and this embraced a very wide category of activities. I knew he was Bud Krogh's boss. I thought more of him in that category than in any other ways.

Mr. NEDZI. Did you feel any of your activities were being reported to him?

Mr. HUNT. I would say that those activities that Mr. Krogh wanted to bring to his attention, he probably would have. I have no way of knowing whether Mr. Ehrlichman was aware of really any of my activities.

Mr. NEDZI. What was Mr. Colson's role?

Mr. HUNT. In the White House, sir?

Mr. NEDZI. Yes.

Mr. HUNT. It was a varied role. He kept in touch with specialists; the dairymen, for example, I think, were one of his areas. Labor unions, Veterans of Foreign Wars, that sort of thing. That was his principal brief in the White House, to my knowledge.

Mr. NEDZI. Mr. Hunt, did you ask your wife to remove certain documents from your office following the Watergate?

Mr. HUNT. I did not ask her to. I think before I got back from Chicago that she went in and took out—this may have been at the request of the Mullen Co. themselves. They had fired me, after all. And she went there to take possession of personal items. There was nothing of a Watergate nature there at the Mullen Co. I went in a few weeks later myself after I returned and had surrendered, as it were, and cleaned out the balance of my personal things. I did not have my wife go in there—

Mr. NEDZI. What was in those files?

Mr. HUNT. Mullen Co. business.

Mr. NEDZI. Why would you take those out if they were Mullen Co. business?

Mr. HUNT. I didn't take them out. I took out personal things, I said, sir.

Mr. NEDZI. What was the nature of the personal things?

Mr. HUNT. Correspondence with friends, that sort of thing.

Mr. NEDZI. What about this stuff that your wife took?

Mr. HUNT. I don't know what she took.

Mr. NEDZI. You never saw them?

Mr. HUNT. Nothing was ever identified to me. She told me that she had gone down to the office to bring back some of my personal things. I had a lot of memorabilia from living abroad so many years. I had an attractive office. I had bric-a-brac here and there. It was that sort of thing I believe she picked up with the assistance of other people in the office. I don't know of anything else she took out.

Mr. NEDZI. No documents, to your knowledge?

Mr. HUNT. I wouldn't think so. There was no documents to be taken out.

I can't identify any as coming from that source; no, sir.

Mr. NEDZI. There is some reference to eight cartons of documents. Does that mean anything at all to you?

Mr. HUNT. Only in this sense, sir: I have gone over this a good many times before; I will be glad to do it again for the record. There came a time prior to last June when the woman, the White House employee, through whose office I had to enter to get into mine, a Mrs. Cathleen Balston, came to me and said that she had a large quantity—not large quantity, but a number of cartons containing books, and since I used my office only occasionally at that time, would I object to her storing these books in my office? And I said, "Well, not so long as you get them out of the way so I can get the door open and I have access to it." Because I worked there so infrequently, I never had people come up and there and see me, it wasn't that kind of an office.

So there came a time a few days later when she got the labor force to move in a number of boxes which were about 3 by 2 by maybe 1. The top carton was open, and there were a number of books open in it. I think these are special-interest books having to do with some aspect of Nixon's foreign policy. It looked very unreadable to me. Those were stacked up in a corner of the office and were there the last time I was ever in my office. Those are the only cartons I know of other than the cartons alluded to in the testimony given by Mr. Dean concerning the removal of material from my safe.

Mr. NEDZI. Can you shed any light on the New York Times piece of June 27?

Mr. HUNT. Yesterday. I haven't read that, sir. You have the advantage of me.

Mr. NEDZI. Roy H. Shepherd—

Mr. HUNT. I read that article this morning, yes, sir. The time that he alleges he made a contact with Liddy, my wife was in Europe, point one.

Mr. NEDZI. So it doesn't—

Mr. HUNT. I think it is typical of this brief, like this man Skolnich out in Chicago, who is creating a clientele for himself with allegations that my wife was murdered and the whole plane was sabotaged because of some Mafia connection. I am sure you are familiar with all

of that. I think that is part and parcel of the same mental attitude. It is ridiculous.

Mr. NEDZI. You say she was in Europe.

That is shortly after the Watergate?

Mr. HUNT. The story I read in the store was the 19th?

My wife was in Europe on that date, sir.

Mr. NEDZI. This particular item in the Times says "shortly after the Watergate." It is subject to interpretation. You have no knowledge of this particular incident?

Mr. HUNT. No, my information is different.

Mr. NEDZI. Do you know anybody by the name of George Ames, Mr. Hunt?

Mr. HUNT. Is that a true name or a pseudonym? No name comes to mind. I can give you off the top of my head "No."

Mr. NEDZI. When you worked in Central America, did you ever have occasion to come in contact with individuals working on electronic installation contracts in Guatemala, or any place else in Central America?

Mr. HUNT. I may have. I can't think of any. I was involved in the operation "Overthrow Arvens" in Guatemala, you know. We used the [deleted] subsidiary as a part of our communications network. If you could be more specific. That is the only connection I can think of, sir. And I don't know the names of anybody after this lapse of time.

Mr. NEDZI. Do you know anyone by the name of Frederick William Hahneman?

Mr. HUNT. Hahneman?

Mr. NEDZI. Yes, H-a-h-n-e-m-a-n.

Mr. HUNT. No, sir. Not to the best of my recollection.

Mr. NEDZI. Do you have any knowledge of the May 5, 1972. hijacking of the Eastern Airlines flight from Allentown, Pa., to Washington, to Miami.

Mr. HUNT. No, sir.

Mr. NEDZI. Do you know whether Frank Sturgis was involved while in Honduras or elsewhere in Central America with Hahneman or George Ames?

Mr. HUNT. I have no knowledge of either of the names. I have no knowledge of Frank Sturgis' activities there.

Mr. NEDZI. Do you have any questions?

Mr. HOGAN. No, sir.

Mr. NEDZI. Were you involved in any operations of any kind in Miami before the Democratic National Convention?

Mr. HUNT. I was involved in the contemplation of operations that might at one time come to pass, but which did not.

Operations per se, no, sir, aside from an assist I gave to Segretti.

Mr. NEDZI. What did that consist of?

Mr. HUNT. That consisted of his requirement for a printer who could be trusted, and through Mr. Barker I got the name of the printer, and that name was passed on to him and I believe he used that printer. What they printed, I don't know.

Mr. NEDZI. Do you have any questions?

Mr. SLATINSHEK. No.

Mr. NEDZI. How did you happen to find time to write so many books, Mr. Hunt?

Mr. HUNT. I was a very fast writer and a very fast worker, sir. I was much younger then than I am today.

Mr. NEDZI. We want to thank you very much. I know it has been something of an ordeal. I think for our purposes the record is complete with regard to you, sir. Thank you.

Mr. HUNT. I hope it is satisfactory, Mr. Chairman.

Gentlemen, I would be more than happy to return at any time at your convenience to clarify any point that you might require further enlightenment on.

Mr. NEDZI. Thank you very much.

The committee will stand recessed until further call of the Chair.
[Whereupon, at 7:12 p.m., the subcommittee recessed subject to call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Friday, June 29, 1973.

The subcommittee met, pursuant to adjournment, at 10:10 a.m. in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order, and this morning we are continuing our inquiry into the Watergate-CIA problem, and we have as our witness Mr. Charles W. Colson, former counselor to the President accompanied by counsel, Mr. David Shapiro. Mr. Colson, if you will rise, I will administer the oath.

Do you solemnly swear that the testimony you are about to give in this hearing is the truth, the whole truth and nothing but the truth, so help you God?

Mr. COLSON. I do, sir.

Mr. NEDZI. Please be seated.

Do you have a statement you wish to read to the committee?

Mr. COLSON. I think my counsel, Mr. Chairman, has submitted a copy of the opening statement that I read to Senator McClellan's subcommittee last week when I testified on the same subject before Senator McClellan. I can read from that if you would like. I don't know whether copies have been made available to the members of this subcommittee.

Mr. NEDZI. We have copies, but would you read it into the record, please?

**STATEMENT OF CHARLES W. COLSON, FORMER WHITE HOUSE
COUNSELOR TO THE PRESIDENT, ACCOMPANIED BY DAVID
SHAPIRO, COUNSEL**

Mr. COLSON. Yes, sir. If I may, as I go through it I will vary it slightly. I was specifically asked when I went before the McClellan committee to address myself to Mr. Ehrlichman's testimony which had been given prior to my testimony before the same committee. So this basically is tailored to the specific points I was asked to address by Senator McClellan, so as I go through it, which may give you some chronology of how Howard Hunt came into the White House and my knowledge of how the room 16 unit began, I may vary from this, from point to point.

During the last week of June 1971 I was asked by Mr. Haldeman and Mr. Ehrlichman to recommend a person who might be assigned responsibility for the research involved in the Pentagon Papers publication—a person who could deal with all aspects of the controversy and who could coordinate White House staff activities.

At that point congressional hearings were anticipated on the matters covered by the Pentagon Papers, and therefore the man selected

had to be familiar with the political process, desirably have some foreign policy experience and have good research skills.

On July 2 I sent a memo recommending several people—five or six—who might be available for such a position. Some were in Government, some outside. One of those I recommended was Mr. Hunt. During the first week of July I had several discussions with both Mr. Haldeman and Mr. Ehrlichman regarding possible candidates.

At one point Mr. Ehrlichman and Mr. Haldeman concluded that Mr. Buchanan of the White House staff should be asked to take responsibility for this project. At Mr. Ehrlichman's behest, I talked to Mr. Buchanan. By memorandum of July 6 I advised Mr. Ehrlichman that Buchanan strongly believed he was not the man for the job.

In the same memo I suggested, therefore, that Mr. Ehrlichman interview Howard Hunt; I had had a long talk with Hunt and found that he was eager to take on the assignment. None of the other candidates I had earlier suggested were either acceptable or available.

According to my diary, I took Mr. Hunt to Mr. Ehrlichman's office on July 7. I believe that I left Mr. Hunt with Mr. Ehrlichman so that they could talk alone. After that meeting I asked Ehrlichman his opinion. He said he had been favorably impressed with Hunt. It was either on that day or during a phone conversation with Mr. Ehrlichman the next day that the decision was made to bring Hunt on as a consultant.

I sometime thereafter initiated the necessary administrative action by advising the staff secretary's office. That is the staff secretary for the entire White House staff. To the best of my recollection, I did not call the staff secretary's office until sometime after Mr. Ehrlichman had given his approval to Mr. Hunt being hired as a consultant.

I might note that the consulting contract with Mr. Hunt was not actually executed until August 20, which would indicate that the actual administrative processing may have been ordered well after the date on which Hunt began his work at the White House.

For such an important assignment, the man hired would have to have been interviewed by either Mr. Haldeman or Mr. Ehrlichman. I had only been asked to make recommendations to Mr. Haldeman and Mr. Ehrlichman.

I do not seek to disavow responsibility for Howard Hunt. He was my recommendation, but the ultimate decision to engage him was approved by Mr. Ehrlichman.

On the 7th or possibly the 8th of July—which would have been by phone—I told Mr. Ehrlichman that Mr. Hunt wanted to establish liaison with the CIA as well as with other Government agencies. The need for contact with the CIA was immediate in that one of Mr. Hunt's first assignments was to interview Lt. Col. Lucien Conein, who had been a principal CIA operative during the period of the Diem coup. Questions had been raised as to whether the CIA would permit Conein to be interviewed. I recall also that Hunt was concerned that he not undertake this assignment without his former agency knowing and approving. He wanted also to be able to talk with his former colleagues and wanted them to know that his activities were of an official nature.

I do not recall whether Mr. Ehrlichman told me specifically at that time that he had in fact contacted the CIA on Mr. Hunt's behalf. However, I do recall him either saying that he would work it out with General Cushman so that Hunt could have liaison with the CIA or advising me later that he had in fact arranged liaison with General Cushman.

Whichever it was, I was left with the impression that there was communication between Mr. Ehrlichman and the CIA on the subject at some early point in Hunt's relationship with the White House. Possibly my conversations with Mr. Ehrlichman were later than the 7th or 8th of July. I simply cannot be certain. And this point became relevant because of a conflict in testimony before the McClellan Committee as to who contacted General Cushman when.

I do not know that at no time did I talk to General Cushman or anyone else at the CIA for that matter. I believe that I may have met General Cushman during the late 1950's when he was on then Vice President Nixon's staff and I was administrative assistant to former Senator Leverett Saltonstall.

I of course knew of the General but I had had no contact with him of any kind during my service in the White House prior to this period (July 1971). The first contact I recall was after General Cushman had become Commandant of the Marine Corps.

During the period of July 8 to July 20, 1971, I sent a series of memorandums to Mr. Ehrlichman advising him of information that had come to my attention either through Hunt or others relevant to the Pentagon Papers controversy and the research then being conducted into the period of the Diem coup.

Mr. Ehrlichman has testified before the McClellan Committee that "At the time Howard Hunt made contact with General Cushman on the 22d of July 1971, there was no surveillance of Ellsberg or anybody associated with Ellsberg yet in contemplation.

That is a quotation from the McClellan transcription page 248.

That may well be the case. However, sometime between the 18th and 20th of July, Mr. Ehrlichman told me that a decision had been made to establish a special investigating unit which would deal with the Pentagon Papers and other security leaks that were at that time of very great concern to the White House.

I regret I cannot be more precise, but I know it was before the 20th and it may have been as early as the 13th. I know that it was shortly after a meeting which occurred in San Clemente on July 12. In any event, I know that Mr. Ehrlichman told me that Mr. Krogh had been assigned full responsibility for the project. He might well have mentioned that Mr. Young was also to be assigned to the project at the same time.

If I can just interject here for a moment, I have discovered from previous testimony that in reciting this chronology I perhaps confused people to the extent that it appears that the hiring of Hunt was part of an evolutionary process that led to the creation of the so-called room 16 unit in the White House, later known as the Plumbers.

The two were wholly independent and separate. Mr. Hunt was hired basically to do research into the Pentagon Papers themselves to try to be someone who would pull it all together, be one quarterback, if you will, in the White House, to find out how complete the papers were, to find out how accurate they were, to compare—actually

what was being published with what was being—what were in the official records.

To try to find out omissions in the Pentagon Papers, if there were omissions, and to coordinate with congressional committees if there were to be congressional investigations, which at the time the Senate, I think, had voted appropriations to conduct investigations into the origins of the Vietnam war and the Pentagon Papers, and therefore the accuracy of the documents that had been released and the completeness of the documents that had been released was very relevant at that point in time, and a matter of considerable concern.

The room 16 unit, I was not in attendance at any of the meetings that led to the decision to create the room 16 unit, which was headed by Mr. Krogh. But when I was advised that there was to be such a special investigating unit established in the White House by Mr. Ehrlichman. I was also advised at that time that Mr. Hunt, who had been doing this research, should be assigned over to that unit.

The only point that I am making is that in developing the chronology of events as best I can remember them, one tends to get the impression that Mr. Hunt was hired and out of Mr. Hunt's work there developed the special investigating unit. The two were very separate and distinct. Mr. Hunt was hired for one assignment. Within a matter of a few weeks when the special investigating unit was established he was then assigned to that special investigating unit, which had quite different purposes than Mr. Hunt was originally hired to perform.

It was on July 22, pursuant to Mr. Ehrlichman's instructions, that I assigned Mr. Hunt to Mr. Krogh. As I recall, the purpose of the meeting was to introduce the two men and to explain to Hunt that he would thereafter be reporting to Mr. Krogh. It was agreed, however, that Hunt would complete some of the research that he had started for me and would continue to provide me with information involving the period covered by the Pentagon Papers, particularly the Diem coup.

On July 22 I sent a memo to Mr. Ehrlichman advising him of the meeting, that is, the meeting with Mr. Hunt and Krogh, informing him that I had assigned Hunt to Krogh, giving him a very general status report on research that had been done to date, the status of proposed congressional hearings, and Krogh's discussion of his plans with respect to managing the investigative unit.

On July 28 Mr. Hunt sent a memo to me, listing several items he proposed for consideration in connection with the investigation of Dr. Ellsberg. One of the items was a psychological profile of Ellsberg by the CIA, another item referred to his psychiatric records, another item proposed interviews with former associates of Ellsberg.

As best as I can recall, because this was Krogh's responsibility, I simply referred the memo to him, possibly with some handwritten notation on the face of the memorandum. I received a memo on August 3, 1971, from Messrs. Krogh and Young in which they stated that several of the ideas proposed by Hunt, including the CIA profile, were in process. Incidentally, no reference was made to the Ellsberg psychiatric records. I simply filed the memorandum.

It was my impression throughout this period, in fact from the beginning of Hunt's relationship with the White House, that he was in frequent and close communication with the CIA. Whether this was on his own or at someone's express direction, I cannot say.

My continuing responsibility in this area after July 22 related to the dissemination of any information which might be developed by the special investigating unit or by Mr. Hunt's own research. According to my diary, I did see Mr. Hunt from time to time up to August 18, 1971. By memo of August 18, I directed my administrative assistant to reassign the office Hunt had been using since he had moved into the room 16 operation. My diary shows no meetings or visits with Mr. Hunt from August 13 until after Labor Day.

Memorandum for : Dick Howard.
From : Charles Colson.

Howard Hunt should move downstairs now into the Krogh security operation. We, therefore, can use his office. Perhaps you would like to move Hallett back up there. It's probably a good place for him because he will still be spending 50% of his time writing speeches and should be working closely with Steve.

On August 15 the President announced what was then known as the new economic policy. I was given the task of mobilizing public support for the President's economic policies and in fact coordinating a Government-wide activity to generate as much public support as possible for the President's freeze and the other economic measures that he announced on that weekend.

As I recall and as my records indicate, I was almost totally involved for several weeks after August 15 in handling matters relating to the President's economic policies.

During this period of my almost total involvement in the President's new economic policy, my communications with regard to this matter were solely with Mr. Ehrlichman and they were limited in number and isolated in context. None of these communications involved the CIA.

I have, as this committee doubtless knows, given an interview to the FBI with respect to my knowledge or more appropriately lack thereof of the break-in of Mr. Ellsberg's psychiatrist's office. The FBI report of that interview was made public. I have also testified extensively with respect to this matter before the grand jury presently investigating it in Los Angeles County. I am obviously prepared to answer any questions in this regard should this committee desire.

Having read Mr. Ehrlichman's testimony before the McClellan committee and knowing the nature of the scope of this committee's inquiry. I do have some additional observations that may be useful to the committee. First, I was not aware in December of 1972 that the U.S. attorney, Mr. Silbert, had made inquiry regarding who called the CIA concerning Mr. Hunt. I believe that John Dean, former counsel to the President, during the month of December asked me if I had called General Cushman at any time in connection with Mr. Hunt's work at the White House. I told him at that time that I had not made such a call.

Second, until recent weeks, I was unaware of the subsequent January memoranda from General Cushman to Mr. Ehrlichman which is referred to in Mr. Ehrlichman's testimony before the Senate committee and I presume is available to this committee.

Third, I was also unaware of any of the meetings which took place between Mr. Ehrlichman, Mr. Haldeman and Mr. Dean with Mr. Helms and General Walters in the June 1972 period until I read of the meetings in the press a few weeks ago. I had never heard any discussions of such meetings while I was on the White House staff.

Mr. NEDZI. Thank you, Mr. Colson.

Mr. Colson, for the benefit of the subcommittee, would you advise us what your duties at the White House consisted of, and over what period of time?

Mr. COLSON. Mr. Chairman, I was appointed special counsel to the President on November 3, 1969. I served in that capacity until March 10, 1973. Although I had tendered my resignation to the President and he had accepted it on December 1, 1972, he had asked me to stay on a few months beyond the period that I had asked to leave the White House.

During that time—initially, when I first came to the White House, my primary responsibility was in dealing with outside groups of all kinds. I was, I suppose, the liaison man or the focal point with outside groups all the way from labor unions to League of Women Voters, to conservation associations, whatever the outside organized constituent group was.

The concept behind my job was to have one place in the White House where people could come who had policy issues or problems that they wished to bring to the attention of the President or the White House staff. From that I began to take on additional specific assignments by the President.

Mr. NEDZI. To whom did you report during this period of time?

Mr. COLSON. Initially I reported to Mr. Haldeman, on a table of organization I would report to Mr. Haldeman. Mr. Haldeman was chief of staff of the White House, and as a matter of fact all members of the staff would be responsive to him as chief of staff. Gradually over a period—

Mr. NEDZI. Where did Ehrlichman fit into this table?

Mr. COLSON. Well, he would be a completely separate chain from the President. In other words, Ehrlichman had all domestic policy under him, and he reported directly to the President on all domestic issues. Dr. Kissinger has all—

Mr. NEDZI. Wasn't your area of concern domestic?

Mr. COLSON. Well, yes, in part. My responsibility covered a wide range of areas, Mr. Chairman. I was not under Mr. Ehrlichman's—staff-wise I was not under Mr. Ehrlichman. I would come under Mr. Haldeman's line to the President. Although in 1971, more so in 1971 and 1972, I began to deal directly with the President, although I think technically throughout the time I was on the White House staff I would be considered part of Mr. Haldeman's staff.

Mr. NEDZI. Did the nature of your responsibilities change in 1970 or 1971?

Mr. COLSON. Yes, sir. By evolution they changed in that the President began to ask me to take on particular assignments for him. Something of a troubleshooter, I suppose would be one way to categorize it. If a particular problem didn't fall under anyone's specific area, or if the President wanted to put me in charge of a particular—handling of a particular issue in the White House, he often did that with increasing frequency over the last—

Mr. NEDZI. Would you describe some of these problems or issues?

Mr. COLSON. Yes. I can think of the one I mentioned, the New Economic Policy. The President called me in the weekend of August 15, and he told me what he was announcing. In fact we had discussed it

beforehand. It was really a domestic policy issue but it was also international. It involved many agencies of the Government. It involved trying to get as much congressional support as possible. It involved trying to get as much public support as possible. And the President wanted one man he could hold accountable for all of what might be called the followup activities to his announcement. And he put me in charge of doing that, which I did for several weeks.

Mr. NEDZI. Any other examples you can give us?

Mr. COLSON. Many of the hot issues that the President had to handle he would ask me to take responsibility for. I recall specifically another example, the effort to get approval of the antiballistic missile, which was a very controversial topic.

The President asked me to take responsibility for handling that from the White House staff dealing with outside groups that might be supportive, dealing with agencies, helping with or directing, really, the congressional effort. Those kinds of assignments the President would often ask me to take. And it would really depend, I guess, on what was most pressing to him at the moment.

At the time, for example, that the President was prepared to announce the initial shipments of grain to the Soviet Union, there was a very great problem in coordinating the policies and positions of different agencies in the Government. And there was also the problem of negotiating with the maritime unions.

The President called me into his Office and asked me to take charge of that particular issue at that time, which I did. My job was very hard to stay with one thing very long, because he would ask me to take responsibility for issues that appeared to be the issue of most immediate concern to him at that point in time.

Mr. NEDZI. Where you provided with any staff in this respect?

Mr. COLSON. Yes, sir. Over a period of time I added to my staff in the White House. I started out alone, and had several people on my staff when I left the White House.

Mr. NEDZI. Who were they?

Mr. COLSON. Well, at various times Mr. George Bell was an assistant of mine, Mr. Richard Howard, Mr. Henry Cashen, Mr. Stephen Karaleakas, Mr. William Rahatican, Mr. Donald Rogers, Mr. John Scalliy, Mr. Michael Balzano, Mr. Desmond Barker—I think that may be as complete as I can make it.

Mr. NEDZI. At the time you contacted Mr. Hunt for the purpose of I guess introducing him to Mr. Ehrlichman, your responsibilities had evolved to the point where you were reporting directly to the President?

Mr. COLSON. It would depend completely, Mr. Chairman, on what the issue was. If it was something the President asked me to take responsibility for then I would be reporting directly to him. If it was something Mr. Haldeman, or if Mr. Ehrlichman asked for my assistance, I would be working with them or through them or for them, depending—it would simply depend—or Dr. Kissinger—it would simply depend on the issue.

Mr. NEDZI. How did you happen to choose Mr. Hunt?

Mr. COLSON. Well, I had known Mr. Hunt for several years.

Mr. NEDZI. What was the nature of your relationship?

Mr. COLSON. We first met socially when I was—I think we met first socially through the Brown Club of Washington, D.C. We both happened to be alumni of Brown University. I don't know when we first met in that connection. I think it was perhaps in the early sixties, but I got to know him rather well when I was president of the Brown Club of Washington and he was vice president, which was 1966 or 1967.

I recommended him to Mr. Haldeman and to Mr. Ehrlichman along with five or six other people. As it turned out——

Mr. NEDZI. Who were the other people?

Mr. COLSON. Mr. DeLoach, who had formerly been with the FBI. Mr. Russ Blandford, who had been chief counsel of this committee. Mr. Buchanan, who was on the White House staff. Mr. Gillers, who was on the Senate Armed Services Committee. I think that may be complete.

Mr. NEDZI. In your statement you said you talked to Mr. Buchanan and Mr. Buchanan strongly believed that Hunt was not the man for the job. What was the reason for that?

Mr. COLSON. No, Buchanan believed he, Buchanan, was not the man for the job.

Mr. NEDZI. I misunderstood. At the time Mr. Hunt was okayed, or shortly after the time he was okayed by Mr. Ehrlichman, you had a conversation with him, I take it, regarding the CIA.

Mr. COLSON. I had a conversation with Hunt either immediately before or immediately after his meeting with Mr. Ehrlichman. I would assume that it was probably immediately after. And my recollection, Mr. Chairman, is that Hunt wanted—there were two reasons he wanted to have contact established with the CIA. One is, I think he was concerned as a former employee of the CIA that he have his credentials established by the White House. In other words, that the White House advise the CIA that he now was going to be working from time to time as a consultant to the White House.

The other thing involved, the other reason involved Mr. Conein, Colonel Conein, who Hunt wanted to interview, and there was a question, I don't recall precisely what it was—but there was a question that had been raised that Conein—that the CIA might not let Conein be interviewed. And I think Mr. Hunt wanted to be certain that he would be able to talk to Mr. Conein.

Mr. NEDZI. Was there any discussion about Mr. DeMott being interviewed by Mr. Hunt?

Mr. COLSON. Yes, sir. That came considerably later than this. Some time late in July. I don't know the date precisely. Hunt came into my office one day and said that he had his employer, Mr. Robert Bennett, of Mullen Co., had received a phone call from someone in Massachusetts who said that he had some information that he would be glad to give to Mr. Bennett or anyone Mr. Bennett sent to see him involving Senator Kennedy and the tragedy at Chappaquiddick.

Hunt said to me, would you like me to try to get it? I said certainly. I took it as an offer on his part to obtain information. I did not really give to much more than that passing thought. He did subsequently go to interview Mr. DeMott and reported back to me that he had really not learned anything that had not been made public before, that it was, that it was a fruitless effort.

Mr. NEDZI. Did you tell him at that time that he should go ahead and

make the interview, to make certain the White House was not involved in any way?

Mr. COLSON. Yes, sir.

Mr. NEDZI. Was there any discussion about disguises?

Mr. COLSON. I remember the only discussion that would relate to that, Mr. Chairman, that I recall was that Mr. Hunt, it seems to me either said or put in a note to me that he would do this in alias. I don't recall at that specific time any discussion about disguises. I do recall Mr. Hunt at one point—and I don't know whether it was before or after this—telling me that he had a disguise, and as a matter of fact at one point showed me a little Polaroid snapshot of himself in his disguise.

Mr. NEDZI. Was this before or after the interview?

Mr. COLSON. I don't know, sir, I don't know.

Mr. NEDZI. Could it have been after the interview?

Mr. COLSON. Yes, it could have been.

Mr. NEDZI. Did you have discussion with him about where disguises might be obtained?

Mr. COLSON. I don't recall any discussion with Mr. Hunt regarding where he would get his disguise, no, sir.

Mr. NEDZI. Do you recall advising Mr. Hunt the FBI should not be approached because there were indications they were not being cooperative?

Mr. COLSON. No, sir. I had no—practically no dealings while I was in the White House with the FBI. I would have had no reason to have made that observation.

Mr. NEDZI. Do you recall saying that the Secret Service should not be approached for the same reason?

Mr. COLSON. No, sir. I recall no discussions with Mr. Hunt regarding either the FBI or the Secret Service.

Mr. NEDZI. Would you say that Mr. Hunt was lying to us when he told us this yesterday?

Mr. COLSON. I don't know what he told you yesterday.

Mr. NEDZI. Well, assuming what he told us was what I asked you about.

Mr. COLSON. Right. All I can say, Mr. Chairman, is that I don't recall those discussions. Mr. Hunt may recall a particular discussions that he had with me better than I can. That is always possible. But I do not recall that discussion.

Mr. NEDZI. Are you saying, then, if we have to believe somebody we should believe him if the story is contradictory?

Mr. COLSON. No, sir. I think you have to simply weigh what my recollection is against anyone else's if their recollection is different than mine. I can't judge for you. If there is a disparity between Mr. Hunt's recollection and mine I can't judge for you which one of us is correct. I can only tell you what I remember to the best of my belief.

Mr. NEDZI. In an effort to assist you in recalling, do you recall Mr. Hunt saying to you that I would like to have somebody make a contact with the CIA in order to secure these disguises?

Mr. COLSON. No, the only thing—

Mr. NEDZI. And aliases?

Mr. COLSON. The only request that I recall Mr. Hunt making with respect to the CIA was a request that he made at the time he first came into the White House staff, which I have already addressed.

He wanted to have liaison with the CIA from the outset of his relationship with the White House. I don't recall any subsequent discussions that he had, or specific requests he had with respect to the CIA.

Mr. NEDZI. At that—

Mr. COLSON. Oh, I am sorry. My counsel has reminded me that he did request at one point that I get in touch with the CIA to get a secretary that he had had before who was overseas brought back and assigned to him.

I told him that would be impossible, that I couldn't do that, that I thought that was an unreasonable request to make. Sometime thereafter, apparently, Mr. Hunt must have made that request because I have read General Cushman's statement that that was one of the items that prompted him, General Cushman, to call Mr. Ehrlichman late in August to say Mr. Hunt's demands for assistance had become excessive. I don't know where I read that, but I read that General Cushman had refused Mr. Hunt's request for a secretary to be assigned to him that had worked for him formerly in the CIA.

Mr. Hunt did bring that request to me. I did tell him I thought that would be impossible to do, and did nothing further with it. I assume he therefore went through some other channel to try to get the secretary assigned to him. I think he also at one point wanted to get the manuscript of a book that he had written that was in the possession of CIA, and asked me if I could obtain that manuscript for him from the CIA.

I had never had any dealings with the agency myself, and I asked Dr. Kissinger's office to request it from the CIA. That was sometime in mid-August, I believe.

Mr. NEDZI. Was this subsequent to the request for the secretary?

Mr. COLSON. I don't know, sir. I don't know the sequence of those two requests.

Mr. NEDZI. Was the request for the secretary conveyed to you prior to it being conveyed to the CIA?

Mr. COLSON. I don't know, sir. All I know is, I am trying to go back and reconstruct events based on what I subsequently read. I assumed when I told Mr. Hunt that we couldn't ask the CIA—we being the White House—ask the CIA to provide his secretary to him, who was as I recall at that time overseas, I thought that was the end of the matter. The only time I ever heard of that again was when I read that General Cushman testified that was one of the requests that had been made of General Cushman by Mr. Hunt, which General Cushman felt was more than he should accommodate him.

Mr. NEDZI. Why did you tell him you couldn't assist him in securing a secretary?

Mr. COLSON. I thought that would be placing an unreasonable request on the CIA to bring someone back from overseas to serve as his secretary when there are plenty of other competent secretaries available on the White House staff, or anywhere else in Washington. This didn't seem to me to be a sensible request to make.

Mr. NEDZI. What kind of request did Mr. Hunt indicate to you was going to be made of the CIA when he asked you to make arrangements for contact with the CIA?

Mr. COLSON. I am not sure I understand the question, Mr. Chairman.

Mr. NEDZI. Why did he ask you to contact the CIA or arrange to have the CIA contacted?

Mr. COLSON. You mean initially?

Mr. NEDZI. Yes.

Mr. COLSON. There were two reasons. One was I think he felt under some constraints, and I think he explained this to me at the time. He felt under some constraints with respect to the contract that he apparently—apparently employees of the CIA execute when they leave the Agency. I think he wanted the CIA to know he was working for the White House, he was a consultant to the White House.

The second thing was that there was some indication, some reason, and I don't know what it was, or recall what it was—there was some indication the CIA would not permit Mr. Conein to be interviewed. Mr. Conein, as you may know, Colonel Conein, as you may know, was the principal CIA operative in South Vietnam during the Diem coup. There was a desire to have Mr. Hunt interview Colonel Conein—

Mr. NEDZI. Whose idea was that?

Mr. COLSON. It may well have been my idea.

Mr. NEDZI. Did you know Colonel Conein?

Mr. COLSON. No, sir.

Mr. NEDZI. Did Mr. Hunt report to you subsequent to his interview of Colonel Conein?

Mr. COLSON. Yes; he did.

Mr. NEDZI. Did he tell you how he arranged the interview?

Mr. COLSON. Yes, sir.

Mr. NEDZI. What did he tell you?

Mr. COLSON. He invited Colonel Conein to come into the White House, and interviewed him in the White House. And then subsequently gave to me a memorandum of his interview with Colonel Conein, which I in turn passed on to Mr. Ehrlichman.

Mr. NEDZI. Did he advise you that he contacted the CIA in this regard?

Mr. COLSON. I think he did, Mr. Chairman, but I can't be specific about that. I am under the impression that he was in touch with the CIA right from the outset of his relationship with the White House.

Mr. NEDZI. Would it surprise you if I told you that in his testimony yesterday he said he just looked up Mr. Conein's name in the phone book and called him up and invited him over?

Mr. COLSON. No, that wouldn't surprise me—yes, it would surprise me—I am sorry. Because I do recall, now that you are asking that question, that he located Colonel Conein through someone at the CIA. I believe he told me that he located Colonel Conein through someone at the CIA.

Mr. NEDZI. At the time he asked you to contact the CIA, what did you do, Mr. Colson?

Mr. COLSON. To the best of my recollection, Mr. Chairman, I told Mr. Ehrlichman of Hunt's request. That the CIA be advised that he was being brought onto the White House staff as a consultant, and it is my impression that Mr. Ehrlichman was in touch with the CIA to make that introduction for him.

Mr. NEDZI. Did Mr. Ehrlichman ever indicate at a subsequent time that he had taken care of the matter?

Mr. COLSON. Yes, sir, he did. At least that is my recollection that Mr. Ehrlichman told me he had been in touch—my recollection is he told me he had been in touch with General Cushman.

Mr. NEDZI. Did you convey this to Mr. Hunt?

Mr. COLSON. I am sure that I did. I don't recall specifically, but I am certain that if Mr. Ehrlichman told me he had been in touch with General Cushman, that I would have then communicated that to Mr. Hunt.

Mr. NEDZI. What led you to the impression that Mr. Hunt was in continual or continuous contact with the CIA?

Mr. COLSON. Well, I would have to answer that, Mr. Chairman, that a series of things would lead me now to that impression, or left me at that time with that impression.

Mr. NEDZI. That is what we are interested in, your impression at the time.

Mr. COLSON. Right. The fact he had discussions with people at the CIA regarding Colonel Conein. The fact that he asked to have an introduction made to the CIA, or rather asked to have the White House advise the CIA he was now on the White House staff as a consultant. I think he may have mentioned from time to time that he had been over to the CIA. I don't recall specifically.

He talked about working with the CIA, performing a psychological profile on Dr. Ellsberg. I would say an accumulative effect of these various points led me to have the impression at that time that he was in touch with them.

I also knew that the room 16 operation as it was then known, or the Plumbers as it has subsequently become known, one of its assigned tasks was to maintain liaison with agencies, investigative agencies concerned with leaks. Their job was to worry about leaks of classified information, and that meant they would be in touch with those agencies that might have either investigative apparatus with respect to the leaks, or might have secured information they would be concerned about from the standpoint of leaks.

I was led to believe that was one of the functions of the room 16 unit.

Mr. NEDZI. Did he ever report to you on specific CIA contacts?

Mr. COLSON. I don't recall—I have read I guess in John Ehrlichman's transcript—I have read in John Ehrlichman's transcript that Howard Hunt made contact with General Cushman on the 22d of July. I don't recall Hunt telling me that he had at that time. I was a little bit surprised as a matter of fact when I read that date in Mr. Ehrlichman's testimony before the McClellan committee, because that happens to be the same date I had introduced Hunt to Krogh, and it struck me that was a coincidence.

I was surprised at that date when I read it in Ehrlichman's testimony. I think he mentioned to me he was dealing—at one point I recall his mentioning a Mr. Osborn's name to me, and I can't tell you why that name rings any bell with me, but it does. He also mentioned that he was working with some doctor whom he had worked with before in connection with the psychological profile.

That is really as precise as I can be. He told me that he had been very, very close to Mr. Helms, and had worked closely with Helms, and knew Helms very well, and that Helms had been I guess of some

help to Mr. Hunt when Mr. Hunt was in financial difficulties because of a very severe accident to one of his children, which had added greatly to his financial burdens, and as a matter of fact is one of the reasons he elected an early retirement from the CIA.

I recall his talking about a very close relationship with Helms. I can't tell you if it was postperiod he came on the White House staff or not, that he had any relationship postperiod.

Mr. NEDZI. Did he say he was in contact with Mr. Helms at all during this period?

Mr. COLSON. No, sir, I can't recall him saying that specifically.

Mr. NEDZI. Mr. Colson, our record discloses that following a number of requests by Mr. Hunt, General Cushman finally called Mr. Ehrlichman and indicated that the demands were excessive and the CIA was no longer going to accede to any of them, or desires, I guess is the way it was put. Was that information conveyed to you?

Mr. COLSON. No, sir. The first I ever heard of that communication was when I read about it either in Ehrlichman's transcript or perhaps in a statement that had been made public elsewhere. I am having trouble, as I am sure the chairman knows, in keeping track of where I read what. It is a little bit hard.

Mr. NEDZI. The chairman knows very well what you are talking about.

Mr. COLSON. I have also had the rather painful experience of trying to go back and reconstruct. I have worked both in the Senate and in the White House, and both places you work 14- and 15-hour days. I know you gentlemen do. I have had to go back and try to reconstruct 2 or 3 years' worth of what happened on what day and who said what to whom. It is not as easy as it might seem.

Mr. NEDZI. What was your relationship to the Room 16 operation?

Mr. COLSON. I really had none. As a matter of fact, I was kind of told to stay out of it. The only relationship I would have had to it, or might have had to it, was if material were generated in the Room 16 operation that would be made available to me if it was material that was to be publicly disseminated. I neglected to mention, and I think it is relevant, one of my assignments that I did assume in the White House in early 1971, that I did not mention, was I took over responsibility for the administration of much of what had theretofore been Mr. Klein's responsibility.

My job was to coordinate the activities of the departmental public information offices, and to manage the efforts of some of the White House communications people—communications in the sense of public communications, not the communications in the technical sense. In other words, the public relations side.

Mr. NEDZI. Were you kept abreast, then, of what was going on with the Room 16 operation?

Mr. COLSON. Not really. Not after it was formed. Only peripherally, I would say.

Mr. NEDZI. Was Ellsberg one of your projects?

Mr. COLSON. That would be one of their projects.

Mr. NEDZI. But you were kept abreast of it?

Mr. COLSON. No, I was merely aware it was being conducted. I don't think I ever saw it or knew as a matter of fact—I know that I did not

know what the analysis established or did not. Or indeed whether there was any.

Mr. NEDZI. Who was responsible to keep you informed of anything that required your concern?

Mr. COLSON. If there were anything that involved—if I were asked to provide any assistance in any area, it would be for Mr. Ehrlichman.

Mr. NEDZI. This did not come from Mr. Krogh or Mr. Young?

Mr. COLSON. No, sir. I don't recall much if any contact with Mr. Krogh or Mr. Young.

Mr. NEDZI. What were your contacts with Mr. Hunt during this period?

Mr. COLSON. Well, I think Mr. Hunt was a little bit reluctant to be assigned to the Room 16 unit. He came into the White House as a consultant. He knew me, we were friends. I think he was really hired for something that he envisioned as being perhaps bigger and more interesting assignment than he ended up doing.

The original conception of his job—and that is why I took that moment in my opening statement to make this clarification—the original conception of his job was that he would pull together all of the information about the Pentagon Papers, find out how complete and thorough the analysis had been, and then communicate back and forth with the Congress.

We were concerned in early July—I am sorry, we were concerned in June with upcoming congressional hearings. And that is why on the list of people that I recommended initially to Mr. Haldeman and Mr. Ehrlichman I recommended people who had had considerable contact with the Congress.

I think Hunt envisioned it more as a more senior assignment on the White House staff where he would be the man in liaison with the Congress, that he would be the man dealing with all the substantive issues. And when he was assigned to the Room 16 unit I was told initially the Room 16 unit was to be a very secure, sterile operation. Only certain persons with special access would be able to go into the room.

There weren't inquiries. I was kind of told not to concern myself with room 16, that it would be a highly classified, secure operation, in the basement of the White House with special files and cleared personnel and special phones, that sort of thing.

Mr. NEDZI. Did you still maintain some kind of relationship with Mr. Hunt?

Mr. COLSON. Yes, sir.

Mr. NEDZI. Following his transfer to the room 16 unit?

Mr. COLSON. I think he was a little unhappy with being assigned there, and he would occasionally—well, as my statement indicates, he sent me a memo on July 28 which was 6 days after he had been assigned to Mr. Krogh. And I think that just reflected his eagerness to continue to work with me.

I merely took his memorandum and bucked it over to Mr. Krogh. The fact of the matter was I think he was unhappy he was no longer working with me. It was clear—I should make this point—it was clear in the meeting I had with Mr. Krogh on July 22 that he was to continue to report to me the results of his research into the Pentagon Papers—in other words, what analyses he was making, the complete-

ness, the thoroughness, the accuracy, the comparison of the Pentagon Papers as published with actual documents.

That portion of his research was to continue to come to me. In addition, Mr. Hunt would occasionally—

Mr. NEDZI. He was in effect responsible to two bosses at this point?

Mr. COLSON. Not really, although it was understood he would continue to provide me certain information that he had initially started out to prepare in the month of July. But it was clear that he was to take his assignments from Mr. Krogh. I made that very clear on the 22d. It is true that he continued to be carried administratively on my rolls, and continued to process his per diem requests through my office.

So to that extent I suppose Mr. Hunt still felt he had a relationship with my office. In addition, I think it is fair to say I have known Mr. Hunt for the 3 or 4 years fairly well. We had lunch together from time to time. I recommended him for another position earlier.

Mr. NEDZI. Which position was that?

Mr. COLSON. There was a job that was to be filled in an outside organization known as the Citizens Committee dealing with the support of the Vietnam war, or the Government's policy with respect to the Vietnam war headed by Abbott Washburn, Citizens Committee for Peace for Freedom.

I don't remember the precise title. I think it is still in existence. Former President Eisenhower was honorary chairman, and the Citizens Committee, whatever the title was, in late 1969 or early 1970 was going to add a permanent staff. It had not had a permanent staff. It had had a very modest budget, and a committee of 100 distinguished citizens, and the idea was to try to give it a permanent staff and make it a viable, continuing operation.

I recommended Mr. Hunt as one of the people who might serve as a staff director or chief public relations man for that sort of a committee. But as I was saying, I had had a relationship with Hunt and had known him, liked him, knew his wife and family. Hunt would occasionally drop by my office after he was assigned to the room 16 unit. He would come in occasionally with ideas. He would come in sometimes just to talk politics. A few times he came in to grumble about the Bureaucracy he felt he was working in in the room 16 unit.

Occasionally he would come in because I would ask him to come in, actually to get certain information out to reporters that I thought he could be useful in doing. So there was an ongoing relationship, although he was not formally a part of my responsibilities in the White House.

Mr. NEDZI. You did task him additionally in minor ways during this period of time?

Mr. COLSON. Yes, sir.

Mr. SLATINSHEK. Mr. Chairman, if I may ask a question to clarify the record.

Mr. Colson, you recommended the hiring of Mr. Hunt, and as I gather from your testimony his was essentially, if you will, a research coordinating position in respect to the Pentagon papers and some of the more important events that the Pentagon papers mentioned.

I have reference to the Diem coup. This is why he apparently interviewed Colonel Conein.

Mr. COLSON. Yes, sir.

Mr. SLATINSHEK. Could you tell the committee what, if anything, was noteworthy in the memorandum that you got from Mr. Hunt with respect to his interview with Colonel Conein?

Mr. COLSON. Really, to be responsive to that I think I would have to go back and look at it. A few things I recall having told him.

Mr. SLATINSHEK. I gather, frankly, you were curious as to the involvement of the administration and the events that occurred at that time in Vietnam, in Saigon, and the role Colonel Conein played in it. So therefore I would imagine that either he obtained some information that was noteworthy or was fairly bland, and it sort of coincided with what the Pentagon papers indicated.

Do you have any recollection on that?

Mr. COLSON. My recollection is it went well beyond what the Pentagon papers indicated. I am trying to remember the specifics of what it dealt with.

Mr. SLATINSHEK. I would assume it had. That is why I asked you the question, so that you could enlighten the committee as to what the events were.

Mr. COLSON. Well. I remember it dealt with Conein's dealings with General Minh, Big Minh, the fact that he knew that Big Minh had found Diem and had one of his majors shoot him, found him in a Catholic church, as I recall. But the whole story of the firsthand account of the coup itself, as was told by Conein involved a lot of his relationships with and meetings with people in the administration at that point in time.

He talked about, and I think it was reported in that memorandum—I think he talked about the delay to get an airplane to get Big Minh out of South Vietnam, that there was an airplane available but it would be 24 hours before it could be brought in, which made——

Mr. SLATINSHEK. Are you saying it was deliberately delayed?

Mr. COLSON. That was the implication. I think, of Conein's point.

Mr. SLATINSHEK. Did he say who gave him that direction?

Mr. COLSON. Who, Conein?

Mr. SLATINSHEK. Yes.

Mr. COLSON. No; I think Conein merely made that as an observation. I guess he did. I guess he was supposed to get or try to get Diem out of the country, thought he was to try to get Diem out of the country. This is really kind of unfair to Colonel Conein, because I haven't seen that document in almost 2 years.

Mr. SLATINSHEK. The purpose of my asking that question is to ascertain whether or not Mr. Hunt's functions in this area were somewhat washed out, which might account for his transfer to the room 16 group, and away from your immediate control, because the project he was on was one under your direct supervision, as I gather here.

Mr. COLSON. I think the events changed. I think the circumstances changed more than the nature of whatever he might or might not find in the way of research. At the time it was decided to have one man on the White House staff who could kind of take over all responsibility for pulling together an administration position, finding out what the facts were, finding out what the accurate information was, and coordinating with congressional committees.

That was during June when things were really breaking loose. We had a case going in the Supreme Court. We were anticipating congressional activity. We didn't know what we were dealing with in terms of what would be next published. All of that sort of calmed down during the month of July. The Supreme Court case was disposed of. There were no further major leaks. We didn't know—I remember at the time there was great concern other documents that were outstanding might be made public.

Mr. SLATINSHEK. Yes. Well, I don't want to beat this to death, but what it boils down to he in effect moved laterally from under your supervision to that of Mr. Krogh's and began to perform under Mr. Krogh's supervision?

Mr. COLSON. Yes.

Mr. SLATINSHEK. Much of the function he had performed under you was therefore moved laterally over to Mr. Krogh's shop?

Mr. COLSON. That is true, yes, sir. On July 22 that was the purpose of my having Hunt and Krogh in together.

Mr. NEDZI. What was his salary?

Mr. COLSON. It was a per diem, Mr. Chairman. It was whatever the going salary was for per diem consultants. I don't know.

Mr. NEDZI. How much time did he spend on the job?

Mr. COLSON. Up until the period of July 22, he was spending a lot of time. After that I don't know how much time he was spending in the room 16 unit. I don't know whether the per diem was \$100 a day or \$150 a day.

Mr. NEDZI. Did he ever tell you that he was going to be participating in some clandestine activities?

Mr. COLSON. No, sir.

Mr. NEDZI. Were you aware of his going to Colorado to interview Miss Dita Beard?

Mr. COLSON. Yes, sir.

Mr. NEDZI. Did he indicate to you at that time he was going to go under an alias? Was he instructed to go under an alias?

Mr. COLSON. No; he indicated he was going to go under an alias. He proposed, if you would like me to explain the circumstances of that I would be glad to.

Mr. NEDZI. Yes.

Mr. COLSON. I think it was March 10, he sent a memorandum to me. It was on plain paper. And I assume it was from his public relations firm, in which he said information had come to his attention that the Dita Beard memo was a forgery. The Dita Beard memo—I don't want to burden the chairman with a long discussion about the background of the ITT controversy of March of last year, but suffice it to say the Dita Beard memorandum which had been published in a Jack Anderson column was really the central point in the entire Kleindienst confirmation hearings, ITT, Senate Judiciary Committee controversy.

That was the whole thrust of the evidence that attempted to link an alleged contribution to the San Diego convention center for the benefit of the Republican National Convention with the ITT antitrust settlement agreement especially. I had had a great deal of evidence or information that the Dita Beard memo was inaccurate—a lot of information.

One day I got this memorandum from Hunt, and he said information has come to me that the Dita Beard memo is a forgery. And I think I could make some inquiries of people involved and find out whether it is or not. I would like to make some inquiries in alias and determine if it is accurate.

MARCH 14, 1972.

Subject: ITT Imbrogllo.

1. According to Bill Gay, the Dita Beard letter is a forgery, uttered by Tom Casey of ITT who aspires to Dita's job. The four mis-spellings of "commitment" would never have been done by Dita's secretary.

2. Why not let me confer with Dita's attorney (in alias) and with Dita's secretary, establish what I can, then enlist Bill Buckley in a counter-attack that would involve his facing the Senate Committee and tilting with Jack Anderson, Ted Kennedy, et al.

3. To date, the document itself has not been questioned. Since it is the crux of the matter, it should be. Any diversion or clouding of the issue at this time should be useful.

HH.

I called Mr. Hunt in after that on the 15th of March and asked him to go to Colorado to interview Mrs. Beard, to find out if the memo was in fact authentic, to tell her to tell the truth, and to assure her that if she told the truth her many friends back here in Washington would not hold it against her that she had done this thing.

That was the purpose of his going out. He, in fact, went to Denver and interviewed Dita Beard, reported back that she said that the memo was not accurate, and didn't know where it came from, but would not substantiate our suspicions, those of us who were working on that in the White House were very suspicious she had written that memo in January of 1972, not in June of 1971, as represented, as it was represented to me, and had leaked it out to the press deliberately to embarrass her employers, and protect her job, and protect her against jeopardy.

That is theory, that is all it is. She did not admit it. She did say the memo was not hers, the substance was incorrect and inaccurate, and Mr. Hunt reported that back to us.

Mr. NEDZI. What was Mr. Johnson's involvement on that trip of his?

Mr. COLSON. You asked earlier in the hearing, Mr. Chairman, what my assignment was in the White House to give you some examples. ITT-Kleindienst-Senate Judiciary hearings was a good example of an instance when the President would call me in and say, please take charge of this, or please put together a task force of people to work on it.

Mr. Johnson was the liaison man for—working under Mr. Timmons, for the Senate. The Senate liaison man on the White House staff. As such he was in constant communication with the Senate Judiciary Committee and was part of what I would describe as an ad hoc task force that we had to assemble in the White House to try to put out the particular fire that was going on at that point in time.

Mr. NEDZI. Mr. Hunt testified his order to go to Colorado came from Johnson.

Mr. COLSON. Johnson arranged the trip through friends of his on the Hill, friends of his here in the Congress, who were in touch with Dita Beard's daughter who I think worked at the Republican National Committee, to introduce Mr. Hunt to Dita Beard.

Mr. NEDZI. When did Hunt finally terminate his employment?

Mr. COLSON. March 30.

Mr. NEDZI. March 30?

Mr. COLSON. March 30, 1972, yes, sir.

Mr. NEDZI. Following that termination, was he still employed by anyone connected with the administration?

Mr. COLSON. No, I don't believe so, sir. My impression was that he was going over to work with the Committee for the Re-Election of the President after he left the White House staff.

Mr. NEDZI. There was nobody at the Committee for the Re-Election of the President connected with the administration?

Mr. COLSON. I misunderstood your question.

No, the Committee for the Re-Election of the President had people who had formerly been in the administration, but no one employed in the administration. The committee was separate. The Committee for the Re-Election of the President was separate from the administration.

A campaign organization and financed through campaign funds, not staffed by administration personnel, I hope. At least not to my knowledge. I must say I would believe anything these days, however.

Mr. NEDZI. So at that time he went over to the Committee for the Re-Election of the President?

Mr. COLSON. Yes, sir.

Mr. NEDZI. Mr. Colson, you have referred to a number of memorandums in your testimony. Are copies of these memorandums available?

Mr. SHAPIRO. Mr. Chairman, let me say I believe almost all of those memorandums have been turned over to the U.S. prosecutors in the course of the conduct of the grand jury investigation.

Mr. COLSON. I turned over copies of the memos that I had. There are other memos that are in the White House files that I don't know whether they have been turned over to the prosecutors or not.

Mr. SHAPIRO. No, the ones I think that we referred to.

Mr. COLSON. Yes.

Mr. SHAPIRO. I think the ones the chairman is interested in, the ones referred to here, dealing with, specifically the ones I recall are those dealing with communications during the period from Mr. Hunt, reciting some of the projects that he was working on, for example, which was a laundry list of things. That kind of memorandum was turned over to the U.S. Attorney's office.

Mr. NEDZI. Did you retain copies of those memos, Mr. Colson.

Mr. COLSON. No, sir.

Mr. NEDZI. Why not?

Mr. SHAPIRO. Because we were asked to turn over all memorandums and all copies.

Mr. NEDZI. Were you compelled to do it?

Mr. SHAPIRO. They served a subpoena on us, in which they asked for all of the material. And I am trying to be as literal as possible these days in compliance with any request.

Mr. NEDZI. Did you ask them whether you could retain copies?

Mr. SHAPIRO. No, sir, as a matter of fact we did not. I just read it that way, to give them everything they asked for. It may be, Mr. Chairman, that if you desire those documents I can request the prosecutors if they would allow us to make a copy for us to submit to you.

Mr. HOGAN. It might be useful, particularly the report on Colonel Conein.

Mr. COLSON. I don't know where that is.

Mr. HOGAN. You don't have that?

Mr. COLSON. No, sir.

Mr. SHAPIRO. That is not one of the documents we transmitted.

Mr. NEDZI. If you would do that, the Chair would be much obliged.

Mr. SHAPIRO. All right, sir.

Mr. NEDZI. Mr. Colson, did you at the time, or at any time, understand that Hunt's duties would involve contact with the CIA?

Mr. COLSON. Not beyond what I have already related to you today, Mr. Chairman.

Mr. NEDZI. At the time you hired him was that contemplated?

Mr. COLSON. He asked for that at the time he was hired. And I was aware that he was in touch with the CIA.

Mr. NEDZI. Was the fact that he was a former employee significant in your hiring him or recommending him?

Mr. COLSON. No. The fact that he had experience in foreign policy issues, and had dealt with some of the areas involved, the fact he had some expertise. It wouldn't have made much difference whether he would have been in the Defense Department, State Department, or CIA, it would have qualified him in my view—would have been a point in his favor in terms of recommending him.

Mr. NEDZI. Mr. Colson, would you at this time relate to us the whole matter involving State Department cables?

Mr. COLSON. Yes, sir, I will try.

Mr. NEDZI. Can you fix the time period?

Mr. COLSON. The time period is the fall of 1971 into the early months of 1972. My recollection of this, Mr. Chairman—I have read what Mr. Hunt has said. I have also issued a public statement. I guess I have also testified in a deposition by the Democratic National Committee to the best of my recollection of what happened.

Mr. Lambert, who was a reporter for Life magazine, met with me, I think, in perhaps October of 1971 and was interested in doing an investigative reporting project—investigative reporting assignment on the origins of the Vietnam war.

He had expressed I think on the telephone early with me, perhaps July or August, an interest in doing a very exhaustive in-depth study of the origins of the Vietnam war at a time when, as I say, it was of topical interest with the Senate Foreign Relations Committee conducting a study.

I put Lambert in touch with Hunt, and told Lambert that Hunt had been studying this for months, and that if anybody knew the history and had studied all the documents and background and memorandums and interviewed the participants, that it would be Mr. Hunt, and that he, Lambert, might be able to develop his story working with Mr. Hunt.

I also told Mr. Hunt to expect a call from Mr. Lambert. My recollection is that the two of them met, that is at least my understanding. And I don't know whether one of them told me they met, or whether I just assumed that they met. To the best of my recollection, some period of time went by. I would have to say several weeks after I put them in initial contact.

Mr. Hunt came to me one day and said that he had been working with Lambert. When I say a period of several weeks, it may have been even a month or two, that he had been working with Lambert, that Lambert had been reviewing all of the documents and interviews and materials, didn't feel that—he didn't feel he had enough to do a story, didn't feel he had enough information to make a good story.

And Hunt said that he had been trying very hard to pull everything he possibly could together to cooperate and assist Lambert in writing the story. Obviously I said something to Hunt. I don't recall what it was. Go back and do better, or can't you come up with something better. Or can't you try harder, or find something else. A week, perhaps two weeks later Hunt came back to me and said—I think he said I have a cable which I have shown to Lambert, and Lambert is very excited about it. I don't believe Hunt showed me the cable, as such, or the purported cable. I think he told me, I think he started to read parts of it to me, and I thought that is one I never heard before.

I asked him about it, and he indicated it was one that he had put together himself and didn't think it was a very good job, but had Lambert very interested, at which point I told him that he could not use that cable with Lambert, obviously. And the next time Lambert called me, some weeks thereafter, Lambert called me and said, you have got a blockbuster cable and I would like to be able to use it, and write a story. And I said no, you can't. I did not tell him why.

I should have. In hindsight I wish I had, because Bill Lambert is a very good reporter and a very persistent reporter. I think he called my office once a week for the entire year of 1972 asking to talk to me, but I talked to him only 3 or 4 time during that year. Each time he would say, can't I get my hands on that cable, and I would say no, Bill, you can't, forget the whole story. I was trying at that point to turn him off of the story.

That is my best recollection, Mr. Chairman, of the cable story.

Mr. NEDZI. Was Mr. Hunt's version incorrect, that you and he had a conversation about the cable, and then you decided the cable should not be released, it should be just flashed to him so he could take a look at it?

Mr. COLSON. No, sir. My recollection is at the time I was first aware that it was not an accurate cable, it had already been shown to Mr. Lambert.

Mr. NEDZI. Was Mr. Hunt lying when he said this?

Mr. COLSON. I don't want to characterize anybody's testimony, Mr. Chairman. I think people try to state their recollections as best they can, and that is what I have done. My recollection varies.

Mr. NEDZI. Some things categorically stated are not so. If you know, and if that is the case, then the other statement is obviously an untruth.

Mr. COLSON. I can categorically state, Mr. Chairman—

Mr. NEDZI. Whatever the reason.

Mr. COLSON. I can categorically state I did not order Mr. Hunt to fabricate any cable or to produce any fabricated cable. In my mind, as I thought back on this, I can't think of anything that would be more stupid. It wouldn't serve any purpose. That is why the minute I knew that Lambert wanted this particular cable, I tried to discourage him from writing the story altogether.

As a matter of fact Lambert has subsequently told me he never knew why, but I suddenly told him to forget about the whole story. I tried to just get rid of it, forget it.

Mr. NEDZI. There is a difference between producing the cable and showing it to somebody. Now, are you saying that you never had a discussion with Mr. Hunt prior to the time Mr. Lambert was shown the cable?

Mr. COLSON. No.

Mr. NEDZI. Regarding this cable—

Mr. COLSON. No; I am saying, Mr. Chairman, that there was a discussion, as I recall it, that took place several weeks, maybe two months, after I had first put Mr. Lambert and Mr. Hunt together, at which Mr. Hunt indicated that what he had been working—that Mr. Lambert didn't feel he had enough for his story, he wanted more.

I said something to Hunt which obviously—I say obviously—apparently he misinterpreted it. The next time he came back, he had a cable, or he had a document that purported to be a cable, that was not, at which point I told him that he could not give that to Mr. Lambert, and I think he told me he had already shown it to Mr. Lambert.

Mr. NEDZI. Are you certain he told you he showed it to Lambert?

Mr. COLSON. Yes, sir, to the best of my recollection—

Mr. NEDZI. He has testified that you and Hunt had a conversation at which this cable was discussed, and recalled that the nature of the forgery was raised, and the conclusion was reached that this cable cannot possibly be turned over to anybody because a simple magnifying glass would reveal its defects.

Mr. COLSON. That wasn't my reason for saying it shouldn't be turned over to him.

Mr. NEDZI. This was the conversation as related by Mr. Hunt, whoever said it. Mr. Hunt said he told you that the use of a magnifying glass would disclose the fact that this is a forgery. It was decided that under no circumstances could this cable be released to anybody, and the tactic to employ was to flash the cable, permit a handwritten reproduction of the contents, but not to turn it over, which is what Mr. Hunt subsequently did.

Mr. COLSON. That is not my recollection, Mr. Chairman.

Mr. NEDZI. We go again to whether you can categorically state that this account of Mr. Hunt's is a lie.

Mr. COLSON. I am not in a position to characterize the testimony of anyone.

Mr. NEDZI. Is it false?

Mr. COLSON. I have to say that it is different than mine.

Mr. NEDZI. Okay.

Mr. SHAPIRO. Mr. Chairman, may we go off the record for a moment?

Mr. NEDZI. All right.

[Discussion off the record.]

Mr. COLSON. Let me go back on the record if I may, Mr. Chairman, and just say what I have been trying to do is to reconstruct in my own mind as best I can events which took place over 18 months ago that were but little flashing bits of a day that weren't of great consequence to me, that were rather tangential to the main things I was working on and concerned with during that period of time, that in-

volved meetings that maybe lasted five minutes, if that, that it really didn't have a great deal of consequence.

And it wasn't until all of this came about that I have had to go back and try to remember as best I can what happened. I put that subject completely out of my mind. I had forgotten it had even occurred except that Mr. Lambert persisted in 1972.

Mr. Lambert's recollection, because I have talked to him about this, is that the first time that he met with Hunt, the first time Hunt said I have a bunch of cables here for you but there is one in particular that is especially good and he handed it to him, and it was this cable.

Lambert says that happened the first time they met. That supports the Shapiro phenomenon that three people see the same thing varied. There is a very significant difference. If you ask me whether I thought Mr. Lambert was lying I would say no. I think that is the way Mr. Lambert honestly recalls it.

Mr. NEDZI. Mr. Colson, I don't want to belabor the point, but certainly forged State Department cables at the level at which you were operating can't be described as an incident of not very great consequence. In my judgment it is exceedingly important, and it seems to me were I to be faced with that kind of situation, I would recall it quite vividly—but we will go on to some further questions.

Mr. COLSON. I don't mean to discount the seriousness of it, Mr. Chairman. And I must point out, I think for the record, that the moment that I realized what had happened or was happening, I did everything I knew how to discourage the use of that cable, including as Mr. Lambert has subsequently told me, trying to get him not to write the story at all. In other words, just turn the thing off entirely. I don't discount the significance.

Mr. SLATINSHEK. Mr. Colson, I am troubled as is the Chairman by the fact that we have a cable here, and we haven't established it for the record today as to what it said or what information it contained, but obviously a very dramatic and sensational piece of information which this reporter was anxious to pursue.

Yet someone who is in a subordinate position on the staff took it upon his own initiative, at least this is what you would have us believe, to show this to this newspaper reporter or to this news media reporter, and I find that very difficult to comprehend—that he would have done that on his own initiative, except perhaps—and I am reading in your testimony the fact that you had mentioned the conversation with Hunt, and the fact that Lambert had not up until that point found anything interesting, and suddenly—and you had impressed on Hunt the fact that he ought to dig a little harder. Do you have any recollection, or do you feel that perhaps he had the impression that you wanted him to develop information?

Mr. COLSON. Yes, I think that, Mr. Slatinshek, is what I was saying a few moments ago. I think in that conversation I had with him, which was very brief, I may have left him with the impression that that is what he was supposed to do.

Mr. SLATINSHEK. That he was to manufacture evidence, so to speak? Let's assume that is the impression, the mistaken impression, that he had. Did that conversation also by any stretch of the imagination suggest to him that once he had developed this evidence, he would not first

show it to you before he showed it to the reporter? I find that frankly impossible to believe.

Mr. COLSON. Well, I don't find it impossible to believe at all, because I think that is what happened.

Mr. SLATINSHEK. In other words, he had the impression you had given him carte blanche to go ahead and manufacture evidence to show it to a reporter from one of the biggest publications in the country, and this didn't disturb you at all?

Mr. COLSON. Well, it disturbs me now, of course. It disturbed me at the time. I don't think I would be stupid enough to suggest to anyone that they produce a manufactured cable and turn it over to a very good investigative reporter who happened to be a very good personal friend of mine.

Mr. NEDZI. That is what Mr. Hunt said.

Mr. COLSON. I am going to explain to you what my opinion is, Mr. Chairman. I don't believe that I would be stupid enough to suggest someone manufacture a document, turn it over to a reporter, have either the text or the substance or the actual copy of that produced in a magazine under the authorship of a friend of mine who would instantly be discovered.

That kind of a thing is going to backfire. I just would not do that to Mr. Lambert. And I don't think Mr. Lambert thinks I would do it to him, either.

Mr. SLATINSHEK. Did Mr. Hunt show this cable to anyone else?

Mr. COLSON. I don't know, sir.

Mr. SLATINSHEK. Not to your knowledge?

Mr. COLSON. Not to my knowledge.

Mr. SLATINSHEK. Why didn't he destroy it once he approached you?

Mr. COLSON. Frankly, I don't know. I don't know, I have never seen the cable, to be perfectly honest. I don't recall seeing the cable itself. I recall Hunt reading something to me. Whether he showed it to me or not I can't say. I don't think so.

May I go off the record for something that I think is really important to explain?

Mr. NEDZI. Why don't we go on the record, Mr. Colson, and then strike it from the record if you don't want it in the transcript, and I assure you that will be done.

Mr. COLSON. I have kind of an aversion to trying to characterize people in a transcript that might ultimately become public. But I think it would help the chairman if I were to explain my analysis of Mr. Hunt a little bit.

Mr. NEDZI. It has been observed if it is pertinent and important it should be on the record, Mr. Colson.

Mr. COLSON. Well, it would be merely a personal observation, and I would rather not make it.

Mr. NEDZI. Did you in 1971 indicate to Mr. John Caulfield, did you have a conversation with Mr. John Caulfield relative to the firebombing of the Brookings Institution?

Mr. COLSON. No, sir, I did not. I did have a conversation with Mr. Caulfield relating to the Brookings Institution. I have seen Mr. Dean's testimony this week. I have been asked about this by the Federal Prosecutors. This is a very bizarre tale. I could tell you if you would like the circumstances surrounding the conversations I had with Mr. Caulfield.

Mr. NEDZI. Please do.

Mr. COLSON. There was a meeting at which I was present in mid-June, during the time of the great concern over the Pentagon Papers controversy, at which there were discussions that took place about other classified documents that might be in the hands of others outside of the Government, which documents might be released.

The enormous concern—it is hard to look back in hindsight, Mr. Chairman, and remember or put yourself today in the position that people were then in the White House—Dr. Kissinger talked about the leak of the Pentagon Papers as the most serious breach of security in the history of the country.

It could undermine the entire foreign policy of the United States. It could prevent other governments from ever dealing with the United States in confidential relationships in the future.

Mr. NEDZI. When did he express this?

Mr. COLSON. During the month of June of 1971.

Mr. NEDZI. Was this at a staff meeting or in what form?

Mr. COLSON. Well, in various meetings.

Mr. NEDZI. Was the message conveyed to you?

Mr. COLSON. I was present when Dr. Kissinger discussed this on many occasions.

Mr. NEDZI. Just for the record, tell us what the occasions were, to your recollection.

Mr. COLSON. There were discussions in the President's office. There were discussions among members of the staff. It was issue No. 1 during the month of June 1971 because Dr. Kissinger had been in secret negotiations with respect to the President's upcoming trip to the People's Republic of China.

Dr. Kissinger was engaged in secret negotiations with the North Vietnamese. We were at a very sensitive point in the SALT negotiations. There were plans then being laid for the President's trip to the Soviet Union in 1972 related to SALT. And I don't think if I could find one time in the entire 3½ years that I served in the White House that there was greater sensitivity—greater, more significant foreign policy developments at a more delicate stage.

I don't think I could describe a time when I was there that there were more sensitive and significant and important foreign policy developments in a more delicate state. Dr. Kissinger was gravely concerned over the consequences, not only the leak of the Pentagon Papers, but whatever else might be about to leak out that we didn't know about.

We didn't know about the Pentagon papers leak. The first Dr. Kissinger or I or anyone else knew was when he picked up the New York Times one morning and there it was. There was very great concern about what else might be coming, what might be behind the leaks. Why were they taking place? What was the purpose?

The President said in his statement of May 22, what was the motive behind it? There was a great concern over what the consequences would be if this was the beginning of a pattern of a lot of highly sensitive documents being released publicly to the newspapers and elsewhere.

One of the concerns expressed was over documents that might still be in the possession of persons employed at Rand and persons employed at Brookings. I was under instructions to communicate con-

cern with respect to classified documents, and the clearance or security status of both Brookings and Rand.

Mr. NEDZI. Under whose instructions?

Mr. COLSON. My only question is whether that is covered by executive privilege, any executive privilege. May I consult with Mr. Shapiro?

Mr. NEDZI. Certainly.

Mr. COLSON. I had received instructions that had been communicated to me by the President with respect to ascertaining what other classified material might be in the hands of those two institutions and what steps could be taken to recover it and what steps could be taken with respect to the security clearance.

I talked to Mr. Ehrlichman—

Mr. NEDZI. What was meant by steps to secure their security clearance? What did you mean by that?

Mr. COLSON. Well, I think what I meant by that was if there were documents that had been stolen that were classified documents in the possession of someone who was not authorized to have them and that person had a security clearance, then it would be a very logical step for the proper governmental authority to inquire into whether that particular person or institution had violated the conditions of its security clearance.

I communicated this to Mr. Ehrlichman, I talked to Mr. Ehrlichman, who said that he would talk to Mr. Laird regarding the nature of the security clearance, with both Rand and Brookings heads. Mr. Ehrlichman asked me to talk to Mr. Caulfield with respect to finding out what documents were in Brookings' possession and dealing with the question of not only determining what documents they were but recovering any documents if they were stolen or if they were in the unauthorized possession of anyone at Brookings.

I told Mr. Caulfield actually what the concern was, and told him that he should try to determine what the documents were, what documents there were, whether they were authorized, or whether they were unauthorized, whether they were stolen or not stolen.

Mr. NEDZI. What is Mr. Caulfield's staff role at this time?

Mr. COLSON. I thought he worked for Mr. Ehrlichman. It turns out in subsequent—that I subsequently learned at that time he worked for Mr. John Dean. He was the liaison with, I thought at the time—and I guess subsequent testimony has confirmed it—that he was the liaison with Federal investigative agencies like the FBI and whatever other security investigative agencies there were in the Government.

Mr. NEDZI. Did you say that Mr. Ehrlichman told you to contact Mr. Caulfield?

Mr. COLSON. Yes, sir.

Mr. NEDZI. Please continue.

Mr. COLSON. I told Mr. Caulfield to inquire into this and to see what could be done. I did not ever suggest to Mr. Caulfield that he engage in anything other than legitimate—an inquiry through legitimate Federal investigative authority. And it was my assumption at that time that Mr. Caulfield was the liaison with the FBI and other investigative authorities, and indeed that—

Mr. NEDZI. Was it your understanding he was also liaison—when you say other investigative authorities, who do you mean?

Mr. COLSON. I would assume whatever investigative mechanism the Defense Department has for security documents.

Mr. NEDZI. Do you have any knowledge of what investigative resources they have?

Mr. COLSON. I think I do, in the sense that they have their own security operation, I mean their own manner of handling classified material. I don't know how they investigate stolen or classified documents that are in unauthorized hands. But I assume they have that capacity. I assume the State Department does. I assume NSA does. I assume CIA does.

In any event, I told Mr. Caulfield the problem, and told him that he was to find out what documents were in the possession of Brookings and to recover them. He told me that he would have to check with Mr. Ehrlichman, and I said of course. I assume he did, I don't know. I saw Mr. Caulfield about a week later, and Caulfield told me two things. One, that Brookings did not have a security clearance, and therefore this did not give rise to any investigation as to whether their security clearance had been violated or whether there were documents—unauthorized documents in their possession. And that there was no way—he didn't have any capacity to determine any further whether there were any documents, and that he could not therefore recover any documents.

I merely told him that he should report that directly to Mr. Ehrlichman, which I assume that he did. Now, I have subsequently read Mr. Dean's testimony that Mr. Dean was told by Mr. Caulfield that I said go in and fire bomb Brookings, or words to that effect, and he, John Dean, got on an airplane and flew out to California to see Mr. Ehrlichman and tell Mr. Ehrlichman this was insanity and that Mr. Ehrlichman then called me.

That to me is just—that is something that stretches my credulity, because it seems to me either Mr. Dean would have picked up the telephone and called Mr. Ehrlichman or walked down the hall four offices and talked to me.

Mr. NEDZI. Did Mr. Ehrlichman call you on this?

Mr. COLSON. I don't recall him ever calling me on this.

Mr. SLATINSHEK. Is it conceivable in talking to Caulfield you might have been so distressed, as many of us were, at the leaks, as you said, I don't give a ——— how you get those documents, get them, or something to that effect which might have implied some extreme action? Is it conceivable you might have done that?

Mr. COLSON. It is conceivable, yes, sir. I don't recall it.

Mr. SLATINSHEK. And gave rise to the impression that Dean conveyed?

Mr. COLSON. It could be. It could be. I don't recall it that way. I do recall Mr. Caulfield telling me at the time, I believe the second time that I talked to him, I believe when I met him in the corridor, I remember him saying something about, well, in the good old days when I was on the New York police force we had a capacity to go in and do these things ourselves. We had our own ways of getting documents.

He may have talked about creating diversions in order to make entries, in order to get things back. I do recall the phrase "in the good old days." And he was talking about, you know, he was saying, what

he was saying to me was we don't have any way to get the documents back. There is no security clearance. Therefore we can't go in and get them. In the good old days when I was on the New York police force we had ways we could do these things. That is in my recollection, not very clearly, but that to me is the only conceivable way I can put this back together.

Mr. SLATINSHEK. Did you have any information that they did have documents, let's say at Brookings, that they were not supposed to be holding?

Mr. COLSON. I had no first-hand information, no, sir.

Mr. SLATINSHEK. Did you have hearsay to that effect or speculation?

Mr. COLSON. Others on the White House staff had information.

Mr. SLATINSHEK. That indicated Brookings had in its possession or some individual in Brookings had in their possession classified documents that were not properly in their custody?

Mr. COLSON. Yes, sir.

Mr. SLATINSHEK. You can't elaborate on that, however, as to what these documents were on who these individuals were?

Mr. COLSON. Well, I have read the testimony that I guess deals with Mr. Halperin. But that isn't the name I recall from that period of time. I recall the name Mr. Gelb. That is another one of these areas, Mr. Chairman, where my recollection on something rather specific differs from someone else's recollection on something rather specific.

Mr. NEDZI. Do you recall the subject matter of the documents?

Mr. COLSON. I remember the discussion, yes, I do. The discussion dealt with what were known as NSS's, National Security Council memorandums.

Mr. NEDZI. Was the project dropped at that point following Mr. Caulfield's report to you?

Mr. COLSON. Yes, sir, Mr. Caulfield said it was something that couldn't be done. I said you better report it back to Ehrlichman. Going back to what Mr. Slatinshek said, it is entirely possible I could have said something off the top of my head which might have given him reason to have an impression that I said that that day. There were grave concerns at that time.

Mr. NEDZI. Why did you tell him to report to Ehrlichman? Weren't you charged with the responsibility by the President?

Mr. COLSON. No. I think it was by accident that I communicated instructions to Mr. Ehrlichman from the President. I think I happened to be present in the President's office when the subject was being discussed, and I communicated it to Ehrlichman, who asked me to explain it to Caulfield. I did. Caulfield said he wanted to talk directly to Ehrlichman, which he did—I assume he did, because he would pursue it only on Ehrlichman's orders.

Mr. NEDZI. Your instructions from the President were to tell Ehrlichman to take charge of this?

Mr. COLSON. Yes, sir.

Mr. NEDZI. How did that come about?

Mr. COLSON. As I say, I happened to be sitting—my recollection is I happened to be sitting in the President's office when the subject was being discussed and I was asked to communicate this to Mr. Ehrlichman, which I did.

Mr. NEDZI. Ehrlichman was not present at that meeting?

Mr. COLSON. Ehrlichman was not present, correct.

Mr. NEDZI. How soon after the meeting did you communicate this?

Mr. COLSON. Immediately.

Mr. NEDZI. Was he outside the door?

Mr. COLSON. I don't know, sir, I don't know whether he was in the building or was out, or was away, but I know that I communicated with him immediately.

Mr. NEDZI. You don't recall where you communicated with him?

Mr. COLSON. No, sir.

Mr. NEDZI. At the time Hunt received certain materials from the CIA, were you aware of what he received at any time?

Mr. COLSON. No; I don't believe I was, Mr. Chairman.

Mr. NEDZI. When did you first receive knowledge of what Mr. Hunt received from the Agency?

Mr. COLSON. Well, as to identification and disguises, I think—I know I was aware he had them.

Mr. NEDZI. How did you become aware of that?

Mr. COLSON. Well, he told me that he had them. And as I say, he showed me a Polaroid photograph one day—a photograph taken with a Polaroid camera.

Mr. NEDZI. What was the photograph?

Mr. COLSON. A picture of himself.

Mr. NEDZI. Where?

Mr. COLSON. I don't know where.

Mr. NEDZI. Was it a Polaroid camera?

Mr. COLSON. He had taken a picture of himself in a disguise with a Polaroid camera.

Mr. NEDZI. I see.

Mr. COLSON. Just to show me. As I think back on it, I would have to say I assumed this was a disguise or material that he either had obtained from CIA or that he had always had. I really don't know. I don't really know at that time if I knew where he had that material from. I know now, because I have read where he obtained it. Reading the events after the fact makes me aware that he had material from the CIA.

I can't really say for certain whether I knew at the time that he had obtained it from the CIA or that he had always had it in his possession, or what the circumstances were.

Mr. NEDZI. Did you ever see any of it physically?

Mr. COLSON. No, sir. I subsequently read he obtained other material which I didn't know until I read it in the newspapers in the last 2 months.

Mr. NEDZI. Did he talk to you about a backstop telephone?

Mr. COLSON. No, sir.

Mr. NEDZI. Or tape recorder or camera?

Mr. COLSON. No, sir.

Mr. NEDZI. Were you ever shown any photographs of Dr. Fielding's office in Los Angeles?

Mr. COLSON. No. Hunt came into my office. I had to go back and reconstruct this. Hunt was in my office one day, which I have identified I believe as September 7. At least it shows on my calendar as September 7. Hunt came into my office—I walked into my office. I had returned from a meeting. I read Mr. Hunt's account of this, and the grand jury

testimony that was made public in Judge Byrne's trial, the Ellsberg trial.

And his account is that he was waiting for me when I arrived in the morning. That could be, although my diary entry shows it at 1 in the afternoon. Mr. Hunt, as I recall, my recollection—

Mr. NEDZI. Why would you say that may be if your diary entry shows 1 in the afternoon?

Mr. COLSON. Well, I believe—I don't recall what time of day it was, whether it was the first thing in the morning as he says or whether it was later in the day. The only thing that I can go back and try to establish it from is my own office calendar, which shows Hunt's name at 1 on that day. So I am assuming it was at 1.

Mr. NEDZI. What would make you say that it might be at 10, or in the morning?

Mr. COLSON. Well, the entry could be inaccurate in my diary. I don't recall the time of day. I am relying upon a diary entry, and I am trying to be as precise as I can relying on a diary entry. That is all I can rely on.

Mr. NEDZI. Have you found your diary entries have been in error frequently?

Mr. COLSON. Yes, sir. An appointment will be set and I won't be able to keep it, and yet it remains on the book. My secretary was pretty good about trying to keep it up to date, but there was just no way. The President would call me in, and I would miss four or five meetings, but the meetings would still show up on the blackboard, or someone would come into the office unannounced and she would then, or I would forget to enter it into the book.

I have found a lot of errors like that, which is why I am cautious when I testify it was at a specific time on a given day. My recollection in any event of the substance of it was that Mr. Hunt had an envelope in his hand, and I walked into my office, he followed me into my office. He said I have something—he said I have a half an hour before I have to give a briefing on what we were up to this weekend, or what we did this weekend. And I would like to show you—

Mr. NEDZI. With whom did you understand the briefing was going to be?

Mr. COLSON. He didn't say.

Mr. NEDZI. What was your understanding?

Mr. COLSON. My understanding?

Mr. NEDZI. Or impression.

Mr. COLSON. I don't know who the briefing was for. I don't know that I thought about it at the time. I knew he was a part of the room 16 unit so I would have to assume it was Mr. Krogh or Mr. Young. He started—I recall him starting to open the envelope, and I could see there were photographs in it. I don't believe he showed me the photographs, because I said to him, I don't have time right now, Howard, and it isn't any of my business in any event. And I really don't have time. I have got to get to another meeting. I was walking into my office as a matter of fact to get some folders and leave immediately to go to another meeting. And that was the sum and substance of the conversation.

Mr. NEDZI. Did you say I don't want to see any photographs?

Mr. COLSON. I don't recall if I said I don't want to or I don't have time to, or it is none of my business. But that was the thrust of my comment at the time.

Mr. NEDZI. What was your impression of the photographs involved?

Mr. COLSON. I had no impression of what the photographs involved.

Mr. NEDZI. Was the Polaroid shot of Hunt shown to you prior to this time?

Mr. COLSON. I believe so, Mr. Chairman. I believe it was considerably prior to this time.

Mr. NEDZI. What did you think this disguise Mr. Hunt was photographed in was going to be used for?

Mr. COLSON. He didn't say, and I didn't ask.

Mr. NEDZI. Were you curious at all?

Mr. COLSON. No. It was in passing. It was something to the effect of, would you like to see—oh, no; I know what it was. It was, can you tell who this is? And he showed me the photograph. And I said yes, it is you.

Mr. NEDZI. A good disguise?

Mr. COLSON. I couldn't tell he was in disguise, to be perfectly honest with you. I remember it being pretty abysmal. I thought, gee, if this is the best people can do—it didn't come up in the context of anything other than, tell me who this is. I said, it is you. It is you. He seemed to be disappointed.

Mr. NEDZI. Mr. Colson, have you ever had occasion to call on the CIA for any kind of assistance?

Mr. COLSON. No, sir.

Mr. NEDZI. You never called them for anything?

Mr. COLSON. No, sir.

Mr. NEDZI. What is your understanding of the channels that are used in contacts with the CIA?

Mr. COLSON. Well, I am glad you asked that, because it gives me an opportunity to clarify something. I never felt that it was my prerogative in the White House to contact—well, there were clear guidelines in the White House with respect to contacting certain agencies of the Government. First of all, any contact with the FBI or the Department of Justice had to be done through Mr. John Dean's office. And there were quite express, explicit instructions about any requests for information, or any problems, or any discussions with Justice or the FBI would be done through Dean.

Defense agency, State, CIA and others through Dr. Kissinger's office. Any request I had, and I only had one that I recall, would be made of Dr. Kissinger's office, or in the case of military personnel inquiries, would be made to the military aide's office.

Mr. NEDZI. What was the request you had?

Mr. COLSON. It was the manuscript I referred to earlier, the book Hunt had written when he was in CIA. There were pretty good established channels of communication between the White House and agencies of the Government. We were specifically asked not, for example, to call the Defense Department except through—make requests of the Defense Department except through Dr. Kissinger's office, usually General Haig, or through the military aide's office if it involved military personnel.

I never had any occasion to call the CIA or anyone in the CIA at any time.

Mr. NEDZI. What was the response on the manuscript incident?

Mr. COLSON. I think it was obtained.

Mr. NEDZI. Were you aware of Mr. Hunt's request of the CIA for a study report on the *1964 French* case involving the leaking of classified information?

Mr. COLSON. I don't believe so, sir.

Mr. NEDZI. Did you have any contact at any time with any CIA personnel?

Mr. COLSON. Not knowingly. I don't know if that is a fair statement. I met Mr. Helms, I think, at a cocktail party or reception once at the White House, I think it was. I saw Mr. Helms occasionally in the White House. I knew him to say hello to him, but I had no dealings with him.

Mr. NEDZI. Did you ever discuss with anyone at the White House the Hunt contacts with the CIA outside of Mr. Ehrlichman?

Mr. COLSON. No, sir, I don't recall discussing it with anyone other than Mr. Ehrlichman.

Mr. NEDZI. Were you aware of any other White House requests to the CIA at any time?

Mr. SHAPIRO. Do you mean other than for Mr. Hunt, Mr. Chairman?

Mr. NEDZI. Yes.

Mr. COLSON. I don't really recall any. The work of the CIA would not normally be involved in anything I was doing.

Mr. NEDZI. Did you have any knowledge of General Walters' meetings with Mr. Dean?

Mr. COLSON. No, sir. The first time I ever knew those meetings took place was when I read about them in recent weeks in connection with the—I don't know how they were released, but I read them in the newspapers. The first I heard about the Haldeman-Ehrlichman meeting with Walters and Helms and Dean's meeting with Walters, the first I ever knew about those meetings was in May or June of this year when they were first published—when the accounts of them were first published. I never heard anybody talk about them.

Mr. NEDZI. Did Mr. Hunt or anybody else talk with you about the break-in of the Watergate?

Mr. COLSON. No, sir. You are talking about before the fact?

Mr. NEDZI. Yes.

Mr. COLSON. No, sir.

Mr. NEDZI. Did they talk to you after the fact?

Mr. COLSON. Yes. I was involved in some meetings the first Monday—well, the first time I ever heard about the Watergate was on my car radio, on Saturday. I heard there had been a burglary of the Democratic National Committee. I didn't associate it with a political activity at all. I just assumed it was another addition to the District of Columbia crime statistics. At 5 or 6 on the evening of Saturday, June 17, I received a call from Mr. Ehrlichman. I was at home. And Mr. Ehrlichman asked me if I knew where Howard Hunt was. I said no. He asked me how recently I had seen Howard Hunt. I said I hadn't seen him for a couple of months. And pursued a number—Ehrlichman pursued a number of questions.

Mr. NEDZI. You hadn't had any contact with Mr. Hunt over a 2-month period prior to June 17?

Mr. COLSON. No; I hadn't seen him since the middle of April, which I told Mr. Ehrlichman I had some contact with him, one by telephone. I can give you—as a matter of fact, I can give you a memorandum dictated on June 20, of all the contacts I had with Hunt during that year.

Mr. NEDZI. Would you please furnish that?

[The following information was received for the record:]

THE WHITE HOUSE,
Washington, June 20, 1972.

Memorandum for the file.
Subject: Howard Hunt.

The last time that I recall meeting with Howard Hunt was mid-March. According to my office records, the date was March 15. At that time I was under the impression that Hunt had left the White House and was working at the Committee for the Re-Election of the President.

I may have seen Hunt once or even possibly twice subsequent to that time. These were (or this was), however, a chance encounter. I do recall seeing him outside of my office during a day this spring; I recall inquiring about his health since he had told me in March he had bleeding ulcers. During the brief conversation in the corridor, nothing was discussed of any of Hunt's work or his areas of responsibility. As I recall, he merely told me that he had been very busy and that after getting some rest, his health had been restored.

I also talked to him on the telephone the night Governor Wallace was shot simply to ask him for his reactions on what he thought might have been cause of the attempted assassination. (Hunt was known of something of an expert of psychological warfare and motivations when in the CIA.)

The only other communication I can recall subsequent to March 15 was a memo I sent to Howard in connection with what I thought his duties were at 1701; i.e., security at the Republican Convention. Steve Bull told me he had a friend in Miami who had been stationed in the White House but was now in the Miami office of the Secret Service who wanted to be of help to whoever was handling security for the convention. I merely sent Hunt a note suggesting that he get in touch with Bull's friend.

To the best of my recollection, Hunt came to me during the month of January and said he had no work to do here and no one was giving him any assignments and that this was the only campaign year he would ever probably have a chance to participate in, that he cared only about one thing, the reelection of the President, and that he wanted to be of help in any way he could, for pay or not for pay. I told him I had nothing in my office, but that I thought once the Committee was organized and Mitchell was in charge, there would be work for him to do at the Committee. I told him that I would be sure the Committee was aware of his desire to help. I did nothing further.

A few weeks later Hunt dropped by my office with Gordon Liddy, from the Committee. I believe this was in February, possibly early in the month, although my office records do not show the visit. Hunt said he was in the building and just wanted to talk briefly. Both he and Liddy said that they had some elaborate proposals prepared for security activities for the Committee, but they had been unable to get approval from the Attorney General. I explained that Mitchell would soon be at the Committee and that they should be persistent and see him because he was the only one who could authorize work they would be doing. I have a vague recollection that Liddy said, "We [referring to Hunt and himself] are now over at the Committee working and we are anxious to get started but can't find anyone who can make a decision or give us the green light" or words to that effect. While Liddy and Hunt were in my office, I called Jeb Magruder and urged them to resolve whatever it was that Hunt and Liddy wanted to do and to be sure he had an opportunity to listen to their plans. At one point, Hunt said he wanted to fill me in and I said it wasn't necessary because it was of no concern to me, but that I would be glad to urge that their proposals, whatever they were, be considered. There was no discussion that I can recall of what it was that they were planning to do other than the fact that I have the distinct impression that it involved security at the convention and/or gathering intelligence during the Democratic National Convention.

In March, Hunt sent me a memo explaining that when he retired from the CIA he had failed to designate survivor benefits for his wife and in view of

the fact that he had had severe ulcer attacks, he wondered if this could be changed in view of his present government service. I told him to take the matter up with Dick Howard, which he did. Dick's memo to Kehrl, copy attached, was the result. I assume Dick Howard discovered at this time that Hunt was still on the rolls even though not working for us.

I had assumed throughout Hunt's tenure in the White House that he was charged to someone else's budget. I signed the original request for him to be a consultant because everyone else was in California at the time it was decided to bring him in. Shortly after he came on board, however, he was assigned to David Young and Bud Krogh and I didn't consider at any time after that that Hunt was under my supervision or responsibility.

From time to time after Hunt had come on board, he did talk to me, normally to express his frustrations in being unable to get things through the David Young operation. Of course, on occasion also we talked socially and about politics, something Howard and I had done from time to time over the years.

CHARLES W. COLSON.

Mr. COLSON. I told Ehrlichman I had not seen Hunt and didn't know where he was or what he was doing as a matter of fact, after a number of questions of that sort I asked John why he wanted to know, and he said there has been a break-in, burglary at the Democratic National Committee, and one of the men arrested has something in his possession that has Mr. Hunt's name on it, which startled me, to say the least.

And then of course the press accounts the next day and the subsequent days, it was evident—no; Mr. Ehrlichman also asked me if I knew of Mr. Doug Caddy and I said I did not know him, although subsequently I learned that I had met him once. I didn't know him. That was the first I ever heard of the Watergate. You asked me about meetings that took place afterwards. There were some meetings on Monday and Tuesday, trying to determine what Mr. Hunt's status was, really.

I had not been aware of—this is the memorandum, Mr. Chairman, that I dictated on June 20, 1972, 3 days after the Watergate. The reason I dictated it and prepared it was that the Evening Star as I recall, had a banner headline which was "Colson Aide—Barker Tied" Barker being one of the participants in the Watergate.

I realized that I was—my relationship with Hunt would obviously be a subject for the press, and I could see that attempt to tie me into the Watergate. So I called my secretary in and took my calendar and tried to recall every instance of any contact with Mr. Hunt during 1972.

Mr. NEDZI. Has that been released?

Mr. COLSON. That memo was turned over to the Federal prosecutors by me in early May of this year. It was turned over to the Senate Watergate—the Senate Ervin Committee staff in early May and was given to the Democratic National Committee in the course of a deposition which they conducted at the end of May.

Mr. SHAPIRO. And is now public. It is public today.

Mr. NEDZI. Today?

Mr. SHAPIRO. That deposition is public today.

Mr. NEDZI. It wasn't released today, was it?

Mr. SHAPIRO. It was released either yesterday or the day before yesterday, so I assume—

Mr. NEDZI. I see. Very recently.

Mr. SHAPIRO. Yes.

[The following information was received for the record:]

THE WHITE HOUSE,
Washington, D.C., August 29, 1972.

Memorandum for: John Dean.

From: Charles Colson.

Over the past two days I have been trying to reconstruct the chronology of Howard Hunt's activities here as accurately as I can recall them. Our records are simply not that complete. I had the feeling that I was wandering somewhat on dates during the interview at Justice yesterday; but frankly I had not tried to put all the dates in sequence in preparation. I cannot find new records here that are any more helpful other than one memo which I dictated immediately after the Watergate episode broke in the press. I am attaching a copy. If you think it would be helpful you can send it along to Mr. Silbert.

I should have reviewed the attached memo before appearing yesterday but I had forgotten I had it. I wrote the attached, by the way, in order to have my best recollection in the files in the event the history of this ever arose at a later time. At the time I remember straining very hard to try to remember the specifics of any meetings; I cannot be sure that my memory is all that precise.

In any event there is no substantial variance between this and what I testified to except this is more specific. As I say, if you think it would be helpful, it should be passed on to Mr. Silbert.

Also, as I went through some of the records last night I found the attached file copies of 4 memos which had been submitted by my office involving Howard Hunt's travel expenses. You may recall yesterday that Silbert asked me about authorized travel. I authorized two trips—one to Massachusetts and one to Denver. The attached, however, refers to other trips which were not authorized by me although obviously the expenses were submitted through me. I do not ever recall signing any of these and the one expense request as to which there is a Xerox original attached contains a "CWC" as initialed by Joan Hall. I assume that Joan handled all of these in the same way that she handled the vouchers for time spent as a consultant. If I did sign any of these, I do not recall or I certainly did not focus on them at the time. In any event, they are attached for whatever value they have.

Mr. COLSON. Yes, sir, the meetings that I attended on the Monday and Tuesday following the Watergate break-in dealt primarily with Mr. Hunt's status. And to some degree with how the administration would respond to the charges. Really, they were more trying to find out information, at least the meetings I was in was trying to find out what had happened, what was going on, and what Mr. Hunt's status was vis-a-vis the White House.

Mr. NEDZI. Was anybody asked to contact Hunt?

Mr. COLSON. No; not to my knowledge.

Mr. NEDZI. Did he call you at any time subsequent to June 17?

Mr. COLSON. Did Mr. Hunt?

Mr. NEDZI. Yes.

Mr. COLSON. Yes.

Mr. NEDZI. When was that?

Mr. COLSON. He wrote me a letter in August, which I turned over to Mr. Dean, and which has subsequently been turned over to the Prosecutors.

Mr. NEDZI. What was the substance of the letter?

Mr. SHAPIRO. I can shed some light on that. It was a very short letter in effect saying that he was sorry he got Mr. Colson involved by himself becoming involved, or something to that effect. We can make a copy of that letter available to you.

Mr. NEDZI. We would appreciate it.

Mr. SHAPIRO. All right.

[The following information was received for the record:]

August 11, 1972.

Memorandum for: John Dean.
From: Chuck Colson.

Attached is the first communication that I have received from Howard Hunt—written or oral—since the Watergate affair; in fact, since long before the Watergate affair. Obviously I have not acknowledged the attached nor do I intend to unless you think otherwise.

HOWARD HUNT,
August 9, 1972.

DEAR CHUCK: In the midst of this imbroglio comes the thought that discreet reprisals ought to be taken against the HEW employees who insisted that I be removed from Mullen's HEW account. They did this on the 21st of June, pre-judging me, and resulting in my being fired by the Mullen Company. The latter move, of course, has the public effect of convicting me and seems gratuitous and unwonted.

The officials in question are both Democrats of the McGovern stripe: Dr. Edwin H. Martin of the Bureau of Education for the Handicapped, and Harvey Liebergott, his understrapper who works at the OE office in Boston, and is the project officer.

Let me say that I profoundly regret your being dragged into the case through association with me, superficial and occasional though the association was. What small satisfaction I can dredge up at the moment is the knowledge that I was not responsible for the affair or its outcome. All this pales, of course, beside the overwhelming importance of re-electing the President, and you may be confident that I will do all that is required of me toward that end.

Sincerely,

HOWARD.



Hon. Charles W. Colson

Special Counsel to the President,

Room 182, Executive Office Bldg.

1500 Pennsylvania Avenue, N.W.

Washington, D.C. 20500

ma

Mr. NEDZI. From June 17 to August—

Mr. SHAPIRO. Mr. Chairman, let me say this. I would be pleased to make available to you—this is my problem—I would like to clear this, because all of these documents we are talking about now have been submitted in the courts in the grand jury investigation. I have no problem about making all of the documents that have been turned over to the Prosecutors in the course of that investigation to this

committee, but I do feel that I want to clear that with them before I turn it over.

Mr. NEDZI. That is perfectly understandable.

Mr. SHAPIRO. The other problem that I think I am a little bit concerned with is because this has all been related to the Federal prosecutors—this particular area. Again, in the course of the grand jury investigation, I don't know whether or not I ought to let my client get into this area in this particular discussion.

My problem with that is that we have some clearly defined limits as to the kind of things we can discuss in connection with evidence that is before the grand jury. I would be a lot happier in getting an OK from the Federal prosecutors before we get into this subject.

Mr. COLSON. I can say, Mr. Chairman, I know the reasons for your questions, because I have read, as you obviously have, and as the testimony shows, the involvement of CIA, which is your concern, of course, after the Watergate. I have absolutely no knowledge of any of those meetings that took place, of any involvement of the CIA nor did Mr. Hunt ever indicate anything of this sort. No one indicated anything of this sort.

I was startled as a matter of fact to read those meetings had taken place.

Mr. NEDZI. You said there was no contact with Mr. Hunt from June to August.

Mr. COLSON. By me, that is correct, sir.

Mr. NEDZI. Or by him?

Mr. COLSON. I had no contact with him. I am saying the only thing I have is this letter.

Mr. NEDZI. Have you talked to him since?

Mr. COLSON. I talked to Mr. Hunt once during the month of November.

Mr. NEDZI. What was the subject?

Mr. SHAPIRO. Again, Mr. Chairman, we are in a rather delicate area. The subject of that conversation was a recorded conversation by Mr. Colson, and was turned over to Mr. Dean. That is a matter that the actual recording and the dictabelt have been turned over to the U.S. prosecutors.

It is also in the files of the Ervin committee. I am just at a loss as to whether we can get into that area.

Mr. NEDZI. Why?

Mr. SHAPIRO. Well, I just don't know whether or not, if this is the subject of grand jury testimony, we should be getting into this without me getting an OK from the Federal prosecutors to do so. Now, if you insist we will go ahead, and I will be glad to tell you about it.

Mr. NEDZI. Well, Mr. Shapiro, it is my interpretation anyway under the separation of the powers doctrine, we are clearly within all the rights to get into anything that is within our jurisdiction. I don't believe any court would preclude us from getting into any subject matter that is covered by the grand jury so long as it is within the purview of our review.

Mr. COLSON. I am not sure Mr. Shapiro is raising a legal objection. Maybe he is.

Mr. SHAPIRO. I am not. I don't think it is legal objection. What I am concerned about very frankly, and I must tell you this quite honest-

ly, is that we have—I say Mr. Colson has been the subject of continual newspaper stories, as a result of material which he has voluntarily turned over, either to the prosecutor's office or to congressional committees, which one way or another have fallen into public print.

The result of which has been that despite the constraints that the prosecutors have put on him to respond to this kind of information, he is at a tremendous loss in trying to deal with the press stories that have dealt with this information.

A classic case in point apparently was the testimony given by Mr. Hunt regarding the so-called Bremmer incident, in which we never knew what Mr. Hunt had said about this incident. Yet the newspaper people knew all about it, and when we tried to get Mr. Hunt's testimony on it, to be able to refute the inferences in that story, based on the facts as we knew them, we found that we were just totally unable to do that.

And in effect we are being involved in a trial by headlines.

Mr. COLSON. I think the significance of that, what Mr. Shapiro is saying, is that it was I who told the Federal prosecutors, and the Senate investigators for the Ervin committee, of the fact that I had called Mr. Hunt the night Governor Wallace was shot. In other words, I made that information available. It is within the memorandum we just gave you.

That information was turned around and apparently some testimony taken from it, and then newspaper stories written that were very prejudicial to me, and I was the fellow that had made the information available. It is sort of an ironic full circle kick in the pants for having made information available in the first place, which I have been willingly doing with the investigators and prosecutors since the beginning.

Mr. SHAPIRO. The problem with this is that if you attempt to respond to the press story, immediately you get into areas of disclosure, which you have already given to the Federal prosecutors in the course of the grand jury investigation, and at that point we are treading a very narrow and I think quite serious line.

Mr. NEDZI. Has that point been made to inquiries directed to, that you cannot comment because this was information given to the Federal prosecutors?

Mr. SHAPIRO. Yes, we tried that many times. The result of doing that of course is that the stories are three times more disastrous than if you try to answer them.

Mr. COLSON. The chairman has been in politics to know the phenomenon you are discussing.

Mr. SHAPIRO. So we are caught between the devil and the deep blue sea. That precisely is my area of concern.

Mr. NEDZI. Well, Mr. Shapiro, all I can say at this point, I think, is that we are just all going after this to try to be discreet under the circumstances, and hope for the best. I think it is imperative that we forge ahead with this testimony.

Mr. SHAPIRO. Well, may I say this, that we would turn over a copy of the transcript of that conversation to the chairman.

[The following information was received for the record:]

CONVERSATION WITH HOWARD HUNT, LATE NOVEMBER 1972

H. Hi.

C. How we doing?

H. Oh, about as well as could be expected. How are you?

C. Just about the same. Trying to hold the pieces together.

H. Congratulations on your victory.

C. Thank you. I'm sorry that we haven't been celebrating it together with some good champagne and some good Scotch, but * * *

H. There may yet come a time.

C. There may, I assure you. Before you say anything, let me say a couple things. One, I don't know what is going on here, other than, I am told that everybody is going to come out alright. That's all I know. I've deliberately not asked any specific questions, for this reason. That I have my own ideas about how things will turn out and I'm not worried about them and you should be, but I've always thought that if it came to an open trial, that I would want to be free to come into it and character and testimony and et cetera et cetera. This way the less details I know of what's going on in some ways the better.

H. I appreciate that.

C. If you follow. So, I have tried to stay out of asking specific questions and it's very hard for me to do that for the reason that you're an old and dear friend and I'm sure you regret the day I ever recommended you to the White House.

H. Not in the least, Chuck, I'm just sorry that it turned out the way it did.

C. Well, I am too, obviously and I hope to hell you had nothing to do with it and I've clung to that belief and have told people that and if you did have anything to do with it, I'm ——— sure it's because you were doing what you were told to do * * *

H. That's exactly right * * *

C. Because you're a loyal soldier obviously and always have been * * *

H. Would you be willing to receive a memorandum from me?

C. Yea . . . the only . . .

H. Because I think it might help you.

C. Except there are things you may not want to tell me.

H. No, there's really nothing I don't want to tell you. I would think that you could receive this memorandum, read it and destroy it.

C. Nope.

H. You couldn't do that?

C. Nope. The reason I can't is the same reason your letter to me, when I got that and then I was asked by Federal authorities, did . . . had I had any communication and I said yea I've received this letter and here it is. I can't . . . you can't get in the position where you're purguring.

H. No, of course not. And I'm afraid John Mitchell has already done.

C. The problem is, you see, I don't want to get into the position of knowing something that I don't now know for the reason that I want to be perfectly free to help you and the only way I can help you is to remain as completely unknowing as I am. See, my problem . . . let me tell you the problem. Is that . . . I could do you a lot more good by not . . . by honestly being able to testify that I don't know, I just don't know the answer and I don't. And right now I don't know anything about the goddamn Watergate. Now, supposing Teddy Kennedy holds his hearings and I get called up there. Well, I can't refuse to answer and I wouldn't. I'd answer I just don't know. I have no idea what happened and I don't.

H. Of course I'm never going to be put on the stand as it stands now.

C. That's right.

H. And so I won't have the opportunity to say one thing or another.

C. You don't want to.

H. You wouldn't be willing to talk to my attorney? Wouldn't that be a different affair?

C. Uh, I don't know, Howard. I don't know whether it is or it isn't. He would know best.

H. That was a suggestion of his.

C. Well, hell, I'll talk to him. That's not a problem. I'll be glad to talk to him. I'm sure that you're being watched.

H. Oh, I am too.

C. And not by federal authorities. I'm sure The Washington Post is watching you.

H. Oh, yea. Well, the reason I called you was to make . . . to get back to the beginning here is because of commitments that were made to all of us at the onset, have not been kept, and there's a great deal of unease and concern on the part of 7 defendants and, I'm quite sure, me least of all. But there's a great deal of financial expense that has not been covered and what we've been getting has been coming in very minor gigs and drabs and Parkison, who's been the go between with my attorney, doesn't seem to be very effective and we're now reaching a point of which. . . .

C. Okay, don't tell me any more. Because I understand and. . . .

H. These people have really got to . . . this is a long haul thing and the stakes are very, very high and I thought that you would want to know that this thing must not break apart for foolish reasons. Oh, no . . .

C. Oh, no, everybody . . .

H. While we get third, fourth hand reassurances, still the ready is not available. That's the basic problem.

C. I follow you. Okay, you told me all I need to know and I can . . . the less I know really of . . . what happened, the more help I can be to you.

H. Alright, now we've set a deadline now for close of business on the 25th of November for the resolution on the liquidation of everything that's outstanding. And this . . . they're now talking about promises from July and August. It just has been an apparent unconcern. Of course we can understand some hesitancy prior to the election, but there doesn't seem to be any of that now. Of course we're well aware of the upcoming problems of the Senate and * * *

C. That's where it gets hairy as hell. See, for your information, Howard, . . . of course this thing has hurt us all because everybody . . . it's just unfortunate as hell, but the Democrats made such an issue out of the whole * * *

H. Well, on the other hand, it kept them from the real issues.

* * * * *

H. Whether you believed it or not.

C. No, listen, I think there's a good bit of validity to that.

H. I do too.

C. Dumb bastards were on an issue that the public couldn't care less about.

H. See, I haven't known at any time what sort of an input you were getting from Dean and other people about who was responsible. . . .

C. Minimum.

H. . . . about who was responsible for all this.

C. Minimum for very good reasons because if somebody told me . . . let me tell you the position I'm in. Whether I stay in the White House for a while or whether I leave, doesn't matter. I want to be in a position to help you. Okay, that means I have to openly talk to people and no matter who it is, from a character standpoint or anything else, be able to say things about you that I want to say. Now, I can't do that the moment I know something that makes it impossible for me to talk to people and the moment that I know something that makes it impossible for me to talk to people, then I've got to be kept in the background and can't talk and I want to talk, so as long as I can help you and I'm going to see that you don't get a bad break out of this and I'll tell you sometime about that.

H. I would hope that somewhere along the line the people who were paralyzed initially by this within the White House could now start to give some creative thinking to the affair and some affirmative action for Christ sake.

C. That's true.

H. I think now is the time for it and we expect it now and we want it and the election is out of the way, the initial terror of the number of people has subsided. Some people have already left the Administration and that's all to the good. So, now it's pared down to the point where a few people ought really be able to concentrate on this and get the goddamn thing out of the way once and for all because I don't want to bore you with what it's been like, but it hasn't been pleasant for any of us.

C. Jesus Christ, I know it. I hope you're doing some writing to keep yourself busy.

H. Oh, I am. I don't know if anything will ever come of it, but it's a good. It keeps my mind from my plight, let's put it that way. So that I was never clear in my own mind, and I'm still not, and . . . that one of the initial output that I had read about was that while this is done by a bunch of wild assed

guys and so forth . . . well, that's fine for we're protecting the guys who are really responsible, but now that that's . . . and of course that's a continuing requirement, but at the same time, this is a two way street and as I said before, we think that now is the time when a move should be made and surely the cheapest commodity available is money. These lawyers have not been paid, there are large sums of money outstanding. That's the principal thing. Living allowances which are due again on the 31st of this month, we want that stuff well in hand for some months in advance. I think these are all reasonable requests. They're all promised in advance and reaffirm from time to time to my attorney and so forth, so in turn I've been giving commitments to the people who look to me and. . .

C. I'm reading you. You don't need to be more specific.

H. I don't want to belabor it.

C. No, it isn't a question of that, it's just that the less specifics I know, 'the better off I am . . . we are, you are.

H. So, Parkison is out of town until next Monday, at which time a memorandum is going to be laid on him and he's going to be made aware . . .

C. I'll tell you one thing I've said to people, and I just want you to know that because I think it's important. I've told people the truth that I've known you for a long time, that I've considered you a personal friend, you're a person in whom I've had high regard and high confidence, a patriot, real patriot, and that had you ever been the one masterminding this, it never would have fallen apart, that the reason that I am convinced, and I told this to the federal authorities on the grand jury, the reason that I'm convinced that you Howard Hunt never had a goddamn thing to do with this or if; you did, it was on the peripheries, is that if you ever did it, you would do it a lot smarter than this and that I've know . . .

H. Chuck, if I had had my say, it never would have been done at all. Let me put it that way.

C. Say no more.

H. . . . the position of another fellow too.

C. Say no more.

H. . . . high risk ballgame.

C. Well obviously I never knew about . . .

H. That's right and I've always maintained to my attorney who of course has my complete confidence in this matter, that you absolutely had nothing to do with it.

C. If I had ever know it was coming I would have said to you as a friend, if some asshole wants to do this, fine, but don't you get involved. I mean, if you and I, if we'd ever had a conversation like that, I would have said, my God, but the point I've made is that you're a smart . . . among many other qualities, you are a brilliant operator and brilliant operators just don't get in this kind of a thing, so I've held and I was asked . . . and this is why I don't want to know any different, this is why I was asked by the Bureau, well, what about Hunt? And I could honestly say, look, I've known this guy a long time, he's a very smart fellow and I can't for the life of me conceive that he would ever get himself in to this kind of situation, so I want to be able to stay in that position. That's why I don't want you to tell me anything beyond that. Give my love to Dorothy, will you?

H. Alright I will.

C. I know it's hard on you and the kids and

H. It's awful tough. My daughter up at Smith is really getting a rough time.

C. Is she really?

H. Very, very hard time.

C. Well, you know, I'll tell you, I find it's only the rough experiences in life and you've had your share of them, god knows, that really harden you and make something out of you, and you learn by them and become a better man for it and we'll talk about that. You'll come out of this fine, I'm positive of that.

H. Well, I want all of us to come out of it, including you.

C. My position, I suppose has been hurt in one sense, that I've been public but obviously people around here know I didn't have anything to do with it, but so be it. We'll all come out of it, don't worry about that. That's the last thing to worry about and I understand this message . . .

H. If you can do anything about it . . . I would think the sooner they can get moving on it the better. Good to talk to you. I'll discuss with Bittman whether he still feels he needs to talk with you.

C. Alright and as soon as I feel that the situation, the future of the thing is clear enough that you and I can get together, we'll damn well do it, but I

don't want to do it pre-maturely because it will limit my ability to help you.
H. Chuck, I understand that completely. That's why I never tried to get in touch with you.

C. I'm in a better position to help you if I can honestly swear under oath, which I can do, because I don't know a goddamn thing about it and I don't. And as long as I'm in that position then I can say what kind of a guy I think Howard Hunt is and why I think this is a bum wrap.

H. Okay. Is your family alright?

C. Doing fine.

H. Your boy's doing well in school I understand.

C. Doing great and he's at Princeton. He's taking a lot of heat, just like your talking about.

H. Oh, he must have.

C. When . . .

H. The only counsel I can give my daughter is that people that will do that sort of thing are the kind who would pull the wings off flies and they're not really the sort of people she would really want to have as friends or even associates in any case.

C. I said the same thing to my son, when the indictments were announced, he said everybody at Princeton said, "oh, you're old man beat the wrap" . . . Isn't that great? Doesn't that make you feel wonderful? I said the same thing to him and he's gotten so he doesn't . . . he figures that the price you pay for serving your country and you take the good with the bad, so if you believe in what you're doing, that has to be the ultimate consolation for all of us.

H. It does indeed. Are you going to be able to take some time off?

C. God, I hope so, Howard, I'm planning to in December some time. If I can possibly get out of here. Well, you take care of yourself and don't let it get you. Don't let it wear down that great spirit and we got the President in for four years and thank God for the country we do.

H. Exactly.

C. You know, when you go to sleep at night, you can put up with a lot of personal grief if you think that . . . there are always things bigger than yourself. That's really true. The moment in life when things are not bigger than yourself, then you're all washed up. Even I know that.

H. I know. I spent a lifetime serving my country and in a sense I'm still doing it.

C. ——— right. Alright, pal, we'll be talking to you.

H. Okay.

Mr. NEDZI. Can you summarize the conversation for us?

Mr. SHAPIRO. Yes; go ahead.

The one thing we want to do is be cooperative. Before I turn over the document itself, since it may be a difficult document, I want to get the clearance of the prosecutors. You go ahead and summarize.

Mr. COLSON. I must also say, Mr. Chairman, I didn't bone up today on all of the post-Watergate events because I didn't know we were going to get into that, but I will try to recall it.

Mr. NEDZI. Well, I think it is obvious that this committee is deeply concerned about post-Watergate, because this is the period when all kinds of attempts were made to involve the CIA in the operation.

Mr. COLSON. Yes, but I am trying to say to you I never knew that until I read it in the newspapers.

Mr. NEDZI. All right.

Mr. COLSON. You may have known attempts were made to involve the CIA before I did.

Mr. SHAPIRO. I think I ought to clear this up, because I think I am as familiar with the actual facts with regard to this as anybody. Before the November phone conversation, there were two communications between Mr. Hunt and/or Mr. Hunt's wife with Mr. Colson's secretary, Mrs. Hall.

Under standing instructions from Mr. Colson that any communications from Mr. Hunt not be revealed to him, but be turned over to the White House counsel, Mr. Dean, Mrs. Hall relayed the contents of those communications to Mr. Dean. I can say that both of those communications had nothing whatever to do with any CIA involvement.

Mr. NEDZI. Mr. Colson, why would you issue such instructions to your secretary?

Mr. COLSON. Well, I was in the position, Mr. Chairman, of the person who was being named every day in the press as the chief architect of the Watergate. Most of the press stories said that—attempted to get the Watergate to the President, attempted to relate the Watergate to the President, did so by reciting my connection with Hunt, my friendship with Hunt, the fact that I had recommended Hunt.

In the public press for several months that was the only link that was being drawn. I hadn't known anything about the Watergate. I had nothing to do with the Watergate.

And it occurred to me that the only way that the White House would be drawn into the Watergate controversy, or the White House would be involved or the President would be involved, was if I got involved. And so as Mr. Dean has testified this week, I went out of my way to keep an arm's-length relationship and to have nothing to do with Hunt, and to have nothing to do with any information that came to my attention about the Watergate.

Anything that came to my attention about the Watergate I immediately passed it on to Mr. Dean. I would not talk to Hunt.

Mr. NEDZI. Did you expect calls from Hunt?

Mr. COLSON. No, sir.

Mr. NEDZI. How did it happen that you instructed your secretary to refer calls from Hunt to Mr. Dean?

Mr. COLSON. No, no. When Mr. Hunt wrote me a letter in August, I immediately referred it to Mr. Dean, sent him the letter, and I said to my secretary, please call Mr. Hunt and tell him that I can't answer his letter. I can't acknowledge it, that I don't want to have any communications with him, that I can't have any communications with him. I can't get involved in anything. I don't want to get involved in anything, because I am the fellow they are trying to nail the Watergate on. And I am the fellow they are trying to bring it into the White House with. Please tell Mr. Hunt I am sorry I recommended him to the White House in the first place, because obviously it caused him great grief. I hope someday whoever did this will get exposed, whoever involved Mr. Hunt in this will get exposed, if he was. I said I hope he wasn't. And that is the communications. She called Mr. Hunt and told him that.

I didn't want to have any contact with Mr. Hunt.

Mr. NEDZI. Well, but at that time did you issue instructions to her that should he call, refer the call to Dean?

Mr. COLSON. Yes, sir.

Mr. NEDZI. OK. Let's go back to the final conversation, then, that you were about to summarize for us.

Mr. COLSON. The only conversation I had with Mr. Hunt was when he called me after the election. He said he was sorry that his activities had involved me, that he knew I didn't have anything to do with

the Watergate, that commitments had been made to him which had not been kept and that he was very disturbed about it.

Mr. NEDZI. What did he mean by that?

Mr. COLSON. I assumed at the time he meant financial commitments. He seemed very upset. I talked to him because after all, he had been a friend for a long time. He called and wanted to talk to me in the middle of November, whenever it was. I called Mr. Dean and asked him if I should, and Mr. Dean said yes, it would be all right to do so.

He made some reference to John Mitchell having perjured himself. In any event, I transcribed the entire conversation and took the tape, called up Mr. Dean and said I just had a very disturbing phone conversation with Mr. Hunt. I am very upset by what he has said. I am very concerned with what he has said. And you —— well better get into this fast and find out what those people across the street are doing.

I assumed his relationship was strictly with the Committee for the Re-Election of the President. I sent the tape down, the dictabelt, down to Mr. Dean, who called me back and said that he would keep it, he would get into it, it was his area of responsibility, for me to forget it, he would take care of it.

I asked him whether I should make a transcript of the conversation, and he said no. So I didn't. I didn't have the tape. I sent it to Mr. Dean. That tape I later recovered from Mr. Dean in January, after some persistent efforts on my part to get it back.

Mr. NEDZI. Why was that?

Mr. COLSON. I had reason in January, then, to be a little concerned that that tape could be important evidence at some point, and I wanted to recover it, and frankly I wanted to go back and look and see what it said, because I had forgotten basically. I had never transcribed the conversation. I took the call from Hunt really to tell him I felt badly for him. I was sorry for him, that he had gotten himself into the trouble that he was in.

And frankly I was trying to get him off the telephone. I didn't want to talk to him other than from a purely human or compassionate standpoint to express my concerns over the fact he was in trouble, to tell him I was sorry I couldn't see him. He asked in that conversation could he send me a memorandum, I said yes; but I will have to turn it over to the Federal investigators if you do.

He said OK, I understand. I think in that conversation he knew I couldn't have any communication with him. And that saddened me. As a matter of fact when his wife was killed—I knew Dorothy, and had a great deal of respect for her—I decided not to go to the funeral. I decided that at the last minute and then I hated myself afterward, because it would have been an act of human decency, and I didn't go because I didn't want another newspaper story that tied me and the White House into the Watergate.

Mr. NEDZI. Why was Dean reluctant to turn the tape back to you? Why did you have difficulty? What kind of difficulty did you have?

Mr. COLSON. That is a question which the Watergate investigators, members of the Ervin Committee, would ask Mr. Dean.

Mr. NEDZI. Well, why—you indicated you thought it might be evidence. Why should he turn it over to the investigators? Wasn't Dean placed in charge of the investigation?

Mr. COLSON. I wanted to make a transcript. And I wanted to see what was in that tape. I wanted to see what was in that phone conversation.

Mr. NEDZI. Why did you ask Dean in the first place whether you should talk to Hunt?

Mr. COLSON. Mr. Dean was responsible for all Watergate matters in the White House during 1972. He was handling the investigation. He was handling the liaison with the Department of Justice. And if anything came along of any importance relating to the Watergate, I turned it over to him at once with the thought that it was his job to investigate it and/or turn it over to Federal authorities—if that was the proper thing to do.

Mr. NEDZI. When was he assigned that responsibility?

Mr. COLSON. My assumption, Mr. Chairman, was that it was the day that the Watergate happened. He would be the logical person in the White House for that. And he certainly acted like he was in charge of it.

Mr. NEDZI. Did you have any discussions with Mr. Ehrlichman or Mr. Haldeman during this period?

Mr. COLSON. Yes; but never about the substance of Watergate. Only about handling of it as an issue during the campaign, which it was, of course.

Mr. NEDZI. Were you charged with any specific responsibility in this regard?

Mr. COLSON. No, sir.

Mr. SHAPIRO. When you say in this period, Mr. Chairman, I don't want to leave the record incomplete with regard to that. There was a conversation with Mr. Haldeman sometime in January, but that was not in the period of 1972. We are just talking about 1972.

Mr. COLSON. Yes.

Mr. NEDZI. Well, anything pertinent to the subject matter is what I intended to convey by my question. Did that conversation with Mr. Haldeman pertain to the Watergate in January?

Mr. COLSON. Yes.

Mr. NEDZI. Would you tell us what it was?

Mr. COLSON. Well, I expressed to Mr. Haldeman in late January my concern based on information that had come to my attention during the month of January that perhaps others were involved in the Watergate. I told him that I did not—I thought it was a very questionable or dubious proposition for money to be paid to the defendants. I told him also that I had learned—hearsay, purely hearsay—that Mr. Dean had been present at a meeting or meetings that took place in the Attorney General's office prior to the Watergate break-in and that it greatly disturbed me, and might indicate to me some White House involvement.

Mr. NEDZI. Where did you get this information?

Mr. COLSON. I had learned of the meeting—well, I had been told by Mr. Bittman, Mr. Hunt's attorney, in early January that there had been either a meeting or meetings in the Attorney General's office, at which John Dean was present prior to the Watergate to discuss Watergate-type activity.

It was that information that prompted me then to get the tape back, or try to get the tape back from Mr. Dean. Frankly, Mr. Chair-

man, I was stunned when I learned that there had been—when I heard a report there had been such a meeting. Maybe I was naive, but I was trying to keep myself away from the Watergate because I thought I was the one link into the White House anybody could draw.

I hadn't the faintest thought anyone in the White House had any involvement in the Watergate. When I learned, or when I was told Dean had been present at meetings like that, I was shocked. That made me want to recover that particular tape from Mr. Dean as fast as I could.

It took me 2 or 3 weeks to do it.

Mr. NEDZI. Was that related to you by Mr. Bittman as firsthand knowledge on Mr. Hunt's part, or hearsay?

Mr. COLSON. Pure hearsay, and related to me as hearsay.

Mr. NEDZI. Did you believe it?

Mr. COLSON. No. I didn't give it any more credence than I would give any more hearsay evidence.

Mr. NEDZI. What was the reason for taping the telephone call?

Mr. COLSON. I felt any communication from Mr. Hunt who was at that point one of the indicted Watergate conspirators could be important evidence, and so I taped it.

Mr. NEDZI. Did you advise Mr. Hunt that he was being taped?

Mr. COLSON. No, sir. I tried to advise him not to tell me anything by telling him anything he said to me or gave to me would have to be turned over to the Federal prosecutors or to proper Federal officials.

Mr. NEDZI. In March of 1972, did you have any dealings with Mr. Jeb Magruder?

Mr. COLSON. I am sure I did, Mr. Chairman.

Mr. NEDZI. Was there any message to him to the effect he should get on the stick and get the Liddy operation in effect so you would get the material?

Mr. COLSON. No. My answer to that particular point is contained in the memorandum I dictated on June 20 that I turned over to you in which I recounted in that memorandum all contacts that I had had with Mr. Hunt during 1972. One of the contacts with Mr. Hunt was in early February, according to that memorandum, or it may have been in January, according to my subsequent examination of the record, in which he and Liddy came into my office, and that meeting is I think reported on page 2 of that memorandum which you have.

I called Mr. Magruder while Mr. Hunt and Mr. Liddy were in my office and told Mr. Magruder that they were complaining, basically Mr. Liddy was complaining. Mr. Hunt had brought him in, was complaining that he couldn't get a decision made on intelligence and security plans that he, Mr. Liddy, had prepared, that I didn't know what they were. I didn't want to get into it. But he, Magruder, should see that they got a hearing and a decision was made.

That is reported in that memorandum. That was the sum and substance of that conversation. I don't ever recall referring to it as the Liddy plan.

Mr. NEDZI. What did you assume they were working on?

Mr. COLSON. I assumed Mr. Liddy was working on convention security, security for the campaign, and intelligence gathering of a

legitimate nature. There was nothing anyone said to me ever at any time that would lead me to believe there was anything other than legitimate intelligence gathering being contemplated by the Republican campaign.

Mr. NEDZI. Was that supposed to be reported to you?

Mr. COLSON. No.

Mr. NEDZI. How would you know that it wasn't being done?

Mr. COLSON. I didn't say I didn't know it was being done. I didn't say I knew what was being done or what wasn't being done. I simply said I never had any indication that there was any intelligence gathering of anything other than a completely appropriate and legal nature.

Mr. NEDZI. Well, maybe I misunderstood or missed something over here, but I had the impression that you at that time were concerned that certain material relative to security matters, legitimate, as you put it, was not being obtained and that you asked that the heat be turned on a little bit to get it. Am I correct?

Mr. COLSON. I don't believe I said that, Mr. Chairman.

Mr. NEDZI. I am sorry.

Mr. COLSON. That is not the case in any event.

Mr. NEDZI. Have you any knowledge as to how the individuals were involved in this project outside of Hunt and Liddy, how they were included?

Mr. COLSON. No, sir.

Mr. NEDZI. Do you know who received the bugging logs?

Mr. COLSON. The what, sir?

Mr. NEDZI. The bugging logs.

Mr. COLSON. No; I do not.

Mr. NEDZI. Did Hunt ever call you to ask you to remove the contents of his safe at the Executive Office Building?

Mr. COLSON. No, sir.

Mr. NEDZI. Have you any idea what the contents of that safe was?

Mr. COLSON. No, sir. I did not at the time. I have subsequently read what the contents were.

Mr. NEDZI. Did you have access to his safe?

Mr. COLSON. No.

Mr. NEDZI. Did anybody in your office have access to his safe?

Mr. COLSON. I learned afterward that Mrs. Hall, my secretary, had the combination to the safe. I don't believe she had ever been in it, nor had I.

I didn't know he still had a safe.

Mr. NEDZI. Did Dean ask her for the combination?

Mr. COLSON. No, sir. My sole knowledge about the safe was the day, the Monday after the Watergate I told Mr. Dean that he should check Mr. Hunt's office. I don't know how we learned that Mr. Hunt still had an office, as a matter of fact. Someone told me he still had an office, and that there was a safe in the office.

I told Mr. Dean that he should immediately take custody of the safe, because it might contain information that would be important to the Federal, whatever investigation was conducted, and that he should immediately examine the office that Mr. Hunt had. And I simply suggested that to him because I thought that was a prudent thing to do in view of the circumstances.

Mr. NEDZI. Did you have any contacts with Mr. Liddy during this period?

Mr. COLSON. No. The only contact with Mr. Liddy during the period—well, there were two contacts with Mr. Liddy during 1972, I guess. One was the day that he and Hunt came in my office, which is reported in that memorandum of June 20. The other time was when Mr. Liddy, in January, I think, came over to brief a number of people on the campaign election, the—it may have been later, it may have been February—in any event, whenever the new campaign spending law was enacted, Mr. Liddy came over to brief a number of people and I was there.

Those are the only two contacts I had with Mr. Liddy.

Mr. SLATINSHEK. On the question of safes, this is a technical question, in most organizations the individual responsible for the safe has the combination and usually some other person has the combination as well, a security officer or something of the kind. Did you have that routine in the White House or that type of a system? What I am trying to anticipate, obviously, each of you were involved in very important matters and had documents that were important to the background of the resolution of problems, and if you should suddenly drop dead these documents wouldn't be available unless someone could get into the safe. Can you give us an idea how you handled that matter?

Mr. COLSON. I don't know what the standard procedure was, Mr. Slatinshek. I just don't know. I don't know what procedures—

Mr. SLATINSHEK. You were unaware of any routine. You had a number of safes?

Mr. COLSON. I didn't have a safe.

Mr. SLATINSHEK. You didn't have a safe?

Mr. COLSON. No, sir.

Mr. SLATINSHEK. I see.

Mr. NEDZI. Were you aware of any suggestion to Mr. Hunt that he leave the country following the Watergate matter?

Mr. COLSON. Yes.

Mr. NEDZI. How did you become aware of that?

Mr. COLSON. I was in a meeting on June 19 when Mr. Dean said—

Mr. NEDZI. Who was at that meeting?

Mr. COLSON. I can't be sure, Mr. Chairman. I tried to go back and determine, and I can't establish who was present. Mr. Dean says it was in Mr. Ehrlichman's office. I don't recall it was in Mr. Ehrlichman's office.

Mr. NEDZI. Was Mr. Haldeman there?

Mr. COLSON. No.

Mr. NEDZI. Was Mr. Liddy there?

Mr. COLSON. No.

Mr. NEDZI. Was Mr. Ehrlichman there?

Mr. COLSON. Well, Mr. Dean says that Mr. Ehrlichman was. I don't recall Mr. Ehrlichman being there.

Mr. NEDZI. Was Mr. Magruder there?

Mr. COLSON. No.

Mr. NEDZI. Mr. Mitchell?

Mr. COLSON. No.

Mr. NEDZI. Mr. Caulfield?

Mr. NEDZI.

Mr. COLSON. No.

Mr. NEDZI. Were there just the two of you there?

Mr. COLSON. My recollection is that there were others present in the room, Mr. Chairman. Possibly someone from Mr. Dean's office, Mr. Fielding. I am very hazy about it because there were meetings going on with people coming in and out from different offices all day that Monday.

Mr. NEDZI. Can you recall the purpose of the meeting?

Mr. COLSON. The meetings I attended following the Monday on the Watergate was basically to find out what happened, what Mr. Hunt's status was vis-a-vis the White House. The press was already carrying accounts that former White House consultant, I guess they were saying White House consultant, it was a question of when he had gotten off the payroll. And simply trying to determine what the facts were, basically.

Mr. NEDZI. What was the substance of the meeting?

Mr. COLSON. Of the meeting?

Mr. NEDZI. Yes. I asked you originally about whether you had any knowledge about somebody urging Hunt to leave the country.

Mr. COLSON. Well, Mr. Dean said in my presence, and I had forgotten this, frankly, until Mr. Dean reminded me of in April of this year, but Mr. Dean said Mr. Hunt had been ordered out of the country. And I recall his saying that.

And I recall my saying that that is one of the dumbest things I have ever heard of in my life, because he will involve the White House in the Watergate, and you might have the White House a party to a fugitive from justice. I said that is a very stupid thing.

Shortly thereafter I recall Mr. Dean making a phone call. I don't know to whom. He has later said he rescinded the order that Mr. Hunt be sent out of the country. And therefore I assume that is the phone call he made. I don't know who he called or whether in fact that was the phone call.

Mr. NEDZI. Is this June 20 memo a memo which you had dictated for Mr. Dean, was this given to Mr. Dean?

Mr. COLSON. It was given to Mr. Dean in August, yes, sir.

Mr. NEDZI. In August?

Mr. COLSON. Yes, it was dictated on June 20. And I put it in my files thinking to myself that I am the principal target of the press attempts to link the Watergate into the White House, and I had better be certain that I have every contact I have had with Hunt put down on paper as contemporaneous to the time as possible. I dictated that memo the first day that the press stories were reporting my alleged involvement in the Watergate.

In August, right after I gave a deposition to the Federal prosecutors for the grand jury, I sent it to Mr. Dean with a suggestion that he pass it along to the prosecutors, because I thought that it was a more orderly and chronological recitation of my contacts with Hunt than had been adduced by the questions asked me at the grand jury. I thought it would be useful to Mr. Silbert in connection with the grand jury investigation.

Mr. NEDZI. Mr. Colson, you have indicated that you passed a polygraph test.

Mr. COLSON. Yes, sir.

Mr. NEDZI. Who conducted the test?

Mr. COLSON. Mr. Richard Arthur.

Mr. NEDZI. Is he an independent private operator?

Mr. COLSON. Yes, sir.

Mr. NEDZI. What is his background, can you tell us anything about him?

Mr. COLSON. Mr. Shapiro has known him for years. I think he can better than I. I only submitted to his exam once.

Mr. SHAPIRO. In my view, Mr. Chairman, Mr. Arthur is perhaps the foremost polygraph examiner in the country today. I would be pleased to give the chairman a copy of the polygraph examination, together with a copy of Mr. Arthur's qualifications. I think I may have a copy here in this folder. That is one of the things I was looking for. We would be pleased to turn that over to you.

Mr. NEDZI. We would very much like to have it, Mr. Shapiro. Thank you.

[The following information was received for the record:]

SCIENTIFIC LIE DETECTION, INC.

Utilizing The Arther II & III Polygraphs

RICHARD O. ARTHUR, D. S. M. A.
PRESIDENT

1109 MEDICAL ARTS CENTER

57 WEST 57TH STREET
PLAZA 5-5241

NEW YORK, NEW YORK 10019

April 4, 1973

Case No. Y - 2298

PRIVILEGED AND CONFIDENTIAL

David Shapiro, Esq.
Colson & Shapiro, Esqs.
Suite 1909
745 Fifth Avenue
New York, N. Y.

Dear Sir:

On April 4, 1973, Charles Colson voluntarily came to this polygraph suite for an Arther Polygraph Examination.

The main issue under consideration was whether or not Mr. Colson was telling the truth when he claimed that he had no prior guilty knowledge of nor had he participated in the burglary/bugging of the Democratic National Committee Watergate Headquarters in Washington, D. C., on June 17, 1972.

The facts concerning this case were provided the polygraphist by David Shapiro, a partner of Colson & Shapiro, Esqs. Mr. Shapiro was present in this testing suite during the entire polygraph examination of Mr. Colson.

Before his pre-test interview, Mr. Colson signed two copies of a form stating he was taking the tests voluntarily. One copy of this executed form is enclosed with this report; the other is incorporated as part of our case files.

In the Arther Polygraph recordings there were definite indications of truthfulness when Mr. Colson was asked the following pertinent test questions:

1. Before last June 17, did you urge anyone to break into the Democratic National Committee headquarters?
Answer: No.

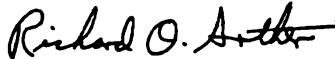
-2-

2. Before last June 17, did you urge anyone to bug the Democratic National Committee headquarters?
Answer: No.
3. Did you tell the truth when you testified three times under oath that you were not involved in the Watergate incident? Answer: Yes.
4. Before last June 17, did you then already know that the Democratic National Committee headquarters was going to be bugged? Answer: No.
5. Have you now told me the complete truth as to your lack of prior knowledge concerning the Democratic Watergate Headquarters bugging?
Answer: Yes.

It is the opinion of the polygraphist, based upon Mr. Colson's Arther Polygraph Examination, that Mr. Colson is telling the truth to the above listed questions.

Respectfully submitted,

SCIENTIFIC LIE DETECTION, INC.



Richard O. Arther,
President

ROA:m

Polygraphist:
Richard O. Arther

SCIENTIFIC LIE DETECTION, INC.

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1109 MEDICAL ARTS CENTER

57 WEST 57TH STREET

NEW YORK, NEW YORK 10019

(212) PLAZA 5-5241

RICHARD O. ARTHUR, B. S. M. A.
PRESIDENT

GENE SANDACZ
CERTIFIED POLYGRAPHER

Richard O. Arther graduated with honors from Michigan State University in 1951 with a Bachelor of Science degree in Police Administration. In 1960 he obtained a Master of Arts degree in Psychology from Columbia University.

Following graduation in 1951, he began his polygraph internship in Chicago at John E. Reid & Associates. His instructors were Mr. Reid and Fred E. Inbau, the noted Professor of Criminal Law at Northwestern University School of Law. After six months of intensive training, during which time he was their only student, Mr. Arther received his certificate as an expert polygraphist.

He was then taken into the firm of John E. Reid & Associates as Mr. Reid's Chief Associate. While there, he was selected to do research on a new interrogational device for the Office of Naval Research. This special project took one year to complete.

Mr. Arther remained in Chicago until July 1953, at which time he came to Manhattan to establish on West 57th Street New York State's first full-time polygraph suite.

In 1964, Mr. Arther became the first President of the Polygraph Examiners of New York State, Inc., which is the official organization of the state's professional law-enforcement and private polygraphists. Since then, he has either been the Association's President or Chairman of the Board. Right now he is Board Chairman, Secretary and Treasurer of this group.

Mr. Arther is also a Charter Member of the American Polygraph Association and is the Eastern Co-ordinator of their Case Review Committee. This is the committee which conducts gratis polygraph examinations in prisons in those capital-crime cases where possibly the person is innocent.

Mr. Arther is also an Active Member of other professional organizations, including the International Association of Arson Investigators, National Counter Intelligence Corps Association, Polygraph Examiners of New Jersey, and Special Agents Association. For seventeen years, Mr. Arther has been an Associate Member of the International Association of Chiefs of Police.

RICHARD O. ARTHUR

PRESIDENT

NATIONAL TRAINING CENTER OF LIE DETECTION

BOARD CHAIRMAN, ETC. - TREAS.
POLYGRAPH EXAMINERS OF NEW YORK STATE

MANAGING EDITOR
THE JOURNAL OF POLYGRAPH STUDIES

THE ARTHUR III POLYGRAPH IS THE MOST COMPLETE LIE-DETECTION POLYGRAPH IN THE WORLD

From 1954 through 1962, Mr. Arther was on the Police Science staff of Brooklyn College, for several years he instructed the Port of New York Authority Police on interrogation and interviewing, for three years he was on the Police Science staff of Seton Hall University, for two years he was on the staff of the Graduate School of Public Administration of New York University as well as a staff member of the John Jay College of Criminal Justice.

In 1958, Mr. Arther helped found the National Training Center of Lie Detection. Since 1964 he has been both its Director and President. There he has given the basic polygraph training to over 300 polygraphists for various Federal, state, and local law-enforcement agencies, including the United States Army, Coast Guard, and Marine Corps.

In the past six years over 500 polygraphists have attended his various polygraph seminars, which he conducts several times a year throughout the country.

Mr. Arther has personally given polygraph examinations to over 17,000 persons. Over 900 times Mr. Arther's testing has been done for the purpose of having his expert opinion admitted into court evidence.

The Arther III Polygraph, which was designed and manufactured according to his specifications, is the most complete lie-detection instrument in use today anywhere in the world.

For professional journals Mr. Arther has contributed over 90 articles dealing with the polygraph, interrogation, and scientific investigation. In addition, in 1953 he materially assisted Fred E. Inbau and John E. Reid in writing the third edition of Lie Detection and Criminal Interrogation.

Mr. Arther is Senior Author of Interrogation for Investigators, which many regard as the country's leading interrogation text. He is also the author of the noted college text, The Scientific Investigator. In addition, he founded and from the start has been the Managing Editor of the only professional polygraph publication, The Journal of Polygraph Studies.

Mr. Arther was first listed in Leaders In American Science in 1962. His name also has appeared in other biographical publications, including the past two issues of Who's Who in the East and the current World Who's Who in Finance and Industry.

January 1971

Place New York, N.Y.Date April 4, 1977

I, Charles W. Cokron, voluntarily -- without threats, duress, coercion, force, promises of immunity or reward -- agree and stipulate to take a polygraph (truth-verification) examination for the mutual benefit of myself, Scientific Lie Detection, Inc., and Daniel Shapiro, Esq.

I fully realize that: I am not required to take this examination. I may remain silent the entire time I am here, anything I may say can be used against me in any court of law, I may first consult with an attorney or anyone I wish to before either signing this form or taking the examination, I may have an attorney present, if I cannot afford an attorney and desire one an attorney will be appointed for me prior to any questioning, and I have the opportunity to exercise all these rights at any time I wish to during the entire time I am here. Nevertheless, I consent to the use of electronic hearing and recording devices, and I voluntarily request and authorize Scientific Lie Detection, Inc. to now proceed with the actual examination.

I do hereby authorize Scientific Lie Detection, Inc., its directors, officers, employees, and/or agents to disclose both orally and in writing the examination results and opinions to directors, officers, employees, and/or agents of Daniel Shapiro, Esq.

I am fully aware that the expert opinion may be that I have not been truthful. Notwithstanding such, in consideration of and as an inducement for Scientific Lie Detection, Inc., to give me this polygraph examination, I -- for myself and my successors, assigns, heirs, executors, and administrators -- knowingly hereby release, absolve, remise, covenant, promise, agree to save harmless, waive, forever discharge, and hold free from all harm, liability, or damage whatsoever Scientific Lie Detection, Inc., the above-named, and everyone's respective directors, officers, employees, and agents individually, collectively, and personally from any and all suits, actions, or causes of actions at law, claims, demands, or liabilities either in law or in equity including but not limited to false arrest, false imprisonment, libel, slander, or invasion of all my rights which I, my successors, assigns, heirs, executors, or administrators have now or may ever have resulting directly, indirectly, or remotely from my taking said examination, possible liabilities or damages flowing from the operation of all electronic hearing and recording devices, the rendered oral and written opinions and statements, and/or all future actions taken by any and/or all of the above based upon the examination.

As a further consideration and inducement to have Scientific Lie Detection, Inc., conduct the examination, I represent that not only am I in good mental and physical condition but that I know of no mental or physical ailment which might be impaired by the examination.

Important Notice: This agreement and release form is a legally binding contract. If not completely understood, do not sign but seek competent advice, such as that rendered by an attorney.

WITNESSED

SEAL (Signature of person to be examined)

TIME

This examination was concluded at 1245 on the above date. I completely re-affirm in its entirety my above agreement. In addition, I knowingly and intelligently continued to waive all my rights, including those listed in the second paragraph above, and I willingly made all the statements that I did make.

I also certify that during the entire time I was well-treated, submitted myself freely to the examination knowing that I could stop any time I so desired by merely saying I wished to stop or that I wished to consult an attorney or any other person. I remained of my own free will knowing that I could leave this room at any time I so desired, and that there were no threats, promises, or any harm whatsoever done to me during the entire period I have been here, either in connection with the examination or my again signing of this agreement and release form.

WITNESSED

SEAL (Signature of person examined)

Mr. NEDZI. Mr. Colson, you are acquainted with Mr. Bittman?

Mr. COLSON. Yes, sir.

Mr. NEDZI. Did that acquaintanceship arise before he became counsel for Mr. Hunt?

Mr. COLSON. No.

Mr. NEDZI. You became acquainted with him after Mr. Hunt retained him as counsel?

Mr. COLSON. Yes, sir.

Mr. NEDZI. How did you happen to be in touch with him?

Mr. COLSON. I first met Mr. Bittman, the first time I ever met him—no, no, the first contact I had with Mr. Bittman, I called him the morning after, I guess, Hunt's wife had been killed in the airplane crash, to ask him to pass on my sympathies to Hunt. I asked him to take care of his client, because I was very worried. I knew how dependent Mr. Hunt was on his wife. And I was very concerned with what Mr. Hunt might do.

Mr. Bittman asked—Mr. Hunt had asked me to see Mr. Bittman in the conversation I had with Hunt in late November. And I had not been willing to do that. In early January, I received another letter from Mr. Hunt in which he thanked me for my handwritten letters of sympathy that I sent him at the time his wife died, but asking me if I would see his attorney, Mr. Bittman. I sent that letter to Mr. Dean with a cover note asking him what I should do.

[The following information was received for the record:]

THE WHITE HOUSE

WASHINGTON

1/2/73

TO: John Dean

FROM: Charles Colson

Now what the hell do I do?

HOWARD HUNT

December 31, 1972

By Hand

Hon. Charles W. Colson
Special Counsel to the President
The White House
Washington, D. C.

Dear Chuck:

The children and myself were touched by your letters, and we deeply appreciate your sympathy. I am unable to reconcile myself to Dorothy's death, much less accept it.

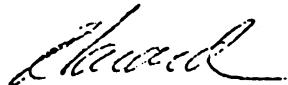
For years I was aware that I depended upon Dorothy, but only now do I realize how profound that dependence was.

Her death, of course, changes my personal equation entirely, and I believe that my paramount duty now and in the future is to my children, particularly to my 9-year-old son who was unusually dependent upon his mother, particularly since last June's tumult began.

I had understood you to say that you would be willing to see my attorney, Bill Bittman, at any time. After my wife's death I asked him to see you, but his efforts were unavailing. And though I believe I understand the delicacy of your overt position, I nevertheless feel myself even more isolated than before. My wife's death, the imminent trial, my present mental depression, and my inability to get any relief from my present situation, all contribute to a sense of abandonment by friends on whom I had in good faith relied. I can't tell you how important it is, under the circumstances, for Bill Bittman to have the opportunity to meet with you, and I trust that you will do me that favor.

There is a limit to the endurance of any man trapped in a hostile situation and mine was reached on December 8th. I do believe in God - not necessarily a Just God but in the governance of a Divine Being. His Will, however, is often enacted through human hands, and human adversaries are arraigned against me.

Sincerely, and in friendship,



Mr. COLSON. That letter and the cover note have been introduced as exhibits in the Ervin hearing.

Mr. NEDZI. Is that how you came to know him?

Mr. COLSON. Mr. Dean called me on the morning of January 3 and asked me to see Mr. Bittman. He said Mr. Bittman wanted to see me, and that I had agreed—that I had told Hunt I would see Bittman, I guess, Dean recounted, and would I please see him.

No, I am sorry. I didn't really get prepared to get into this whole area today. As I recall, it was around midday on January 3 that John Dean asked me if I would see Hunt. He said Hunt was on the verge of cracking up and was in terrible shape, and just because I had been his friend, would I please see him.

I told Dean I would not see him, that I did not want to become involved in the Watergate or have anything to do with it, and didn't want to have any contact with Mr. Hunt. Later, I thought about the letter that Hunt had sent me and said that I would see—I told Dean that I would see Mr. Bittman.

Dean had also raised the point with me that Bittman was in the process of filing a motion to suppress certain documents that had been obtained from Hunt's safe and that I owed it to Bittman as a matter of courtesy to talk to him about the circumstances surrounding Hunt's termination of his employment in March of 1972 because that bore directly on the question of whether the Government—whether Hunt had abandoned the safe and whether Hunt had obtained the evidence from it, or whether the evidence was tainted by an improper entry into Hunt's safe, if he still had legal authorization to use it.

After discussing that with Mr. Ehrlichman, I agreed I would see Mr. Bittman.

Mr. NEDZI. What was your legal conclusion?

Mr. COLSON. What was my what?

Mr. NEDZI. Legal conclusion.

Mr. COLSON. I didn't make any legal conclusion. I simply knew the facts which were that Mr. Hunt was terminated from the White House payroll on March 30 by memorandum of my administrative assistant, and—

Mr. NEDZI. When was that memorandum prepared?

Mr. COLSON. March 30, 1972. I didn't have a legal conclusion. I simply knew the fact which was that Hunt did not have authorization to continue to use his White House facilities, or White House pass, or White House safe after March 30.

Mr. NEDZI. You saw Mr. Bittman, then?

Mr. COLSON. I saw Mr. Bittman.

Mr. NEDZI. What was the substance of that conversation?

Mr. COLSON. We talked about the motion to suppress. I have a memorandum which I wrote after my meeting with Mr. Bittman, which has also been turned over to the Federal prosecutors and to the Watergate investigators.

[The following information was received for the record:]

THE WHITE HOUSE
WASHINGTON

January 5, 1973

MEMORANDUM FOR THE FILE

SUBJECT: Interview with Bill Bittman

On January 3, Bill Bittman asked to see me. He said it was a matter of considerable urgency. He had made the request several times in the past and on the advice of John Dean, I had refused to see him. Dean told me on the 3rd, however, that I should see him, that he had some questions to ask which I had to answer and that it was appropriate inasmuch as my testimony could be involved in a motion to suppress certain evidence, that I give Bittman the courtesy of an interview so that he could find out that facts directly from me.

Bittman asked me about the circumstances of Howard's leaving. I described them to the best of my recollection as I had described them to the U.S. Attorney and the FBI. I told Bittman that I had not known that Howard was still on the payroll. Inasmuch as Joan Hall had signed all of his time sheets, I was under the impression that he had gone to the Committee in March or perhaps even earlier to work for Gordon Liddy.

I explained to him that I found out Howard was still on the payroll and had to be formally removed when he asked me in March if there were any way his retirement could be reinstated even for a day so that he could revise the survivors benefit election which he had made upon retirement from the CIA a year earlier. He explained that his health was not good as he had had another ulcer attack and that he wanted to be sure to provide for Dorothy in the event he should pre-decease her. I explained to Bittman that I had asked Hunt for a memo, he gave it to me, that I gave in turn to Dick Howard for handling and that Dick at that time took Howard off the payroll, but also tried to resolve the retirement situation.

2.

Bittman told me that he had intended to bring the motion to suppress on the grounds that Howard had continued to use his office and safe and that, therefore, the Government had no right to enter the safe. I explained to him that I did not know at the time that Howard still had a White House pass, although I subsequently learned that was the case because of an administrative error in processing, which error grew out of the fact that we tried to give him the opportunity to elect survivors benefits at the time he left. In short, that took his severance out of the normal routine handling that would have otherwise been the case.

During the course of the conversation, Bittman told me that Howard was in a severe depression, that he felt responsible for his wife's death, that he had leaned on her very heavily, that the FBI had told Dorothy of things that they found in the safe which caused severe strain between Dorothy and Howard and great embarrassment to Howard and that all of this was weighing heavily on him now. Bittman said that Howard felt the Government was out to get him. Bittman said that he, Bittman, did not honestly feel Howard could stand trial, that he was obsessed with the concern of his four children, one of whom was so disturbed that apparently he had attempted suicide, another was suffering from brain damage incurred in an automobile accident.

I explained to Bittman that I had known nothing about Watergate. Bittman said that Howard confirmed this, that I was in no way involved. I told Bittman I wanted to stay in that position, that I really didn't want to know the facts, that I hoped Howard was innocent and that I wanted to do anything I could to help Howard because I felt he had been used and had suffered more than any man should be expected to suffer. I told Bittman to please reassure Howard that I as an individual felt real grief over Howard's circumstances, that I would always be a friend, regardless of what he did, that I would always want to try to help in any way I could, even to the point of a character witness if that were useful. I explained that I had not seen Howard and had been unwilling to see Bittman because I thought I could be more helpful to Howard if I kept myself totally uninvolved.

I explained if there were a motion to suppress that, of course, I would have to testify as a Government witness against Howard, that I hoped he would understand that, that I would simply have to tell the truth, that

3.

Howard had gone off the payroll and was using his former office and safe without authority, that I would simply have to tell all of the facts as I recall them.

On January 4, Bittman asked to see me again. He told me that he had withdrawn the motion to suppress, that obviously based on what I had told him it would not succeed and there was, therefore, no point in pursuing it. He told me that Howard was on the verge of cracking because he was fearful that if he went to jail something catastrophic would happen to his children. I told Bittman that as a friend I would try to help somehow with his children, perhaps find someone who could assume custody, that I felt Howard had already suffered more punishment than any court could give and I personally hoped he didn't have to go to jail.

I told Bittman that if he did, I would certainly make any recommendations I could anytime, anywhere, that Howard's sentence be mitigated and that he, Bittman, should feel free to call upon me. Just as a human matter, I couldn't imagine any judge sentencing Howard to an extended period in jail, knowing the circumstances of his family and what could be the consequences.

Bittman said that Sirica was a "hanging" judge and that Silbert was a zealot prosecutor, that he, Bittman, had tried to get Silbert to agree to a plea of guilty to certain counts so as to reduce the possible sentence, that Silbert had refused unless all the defendants pleaded guilty. He said that the defendants were not unanimous in their feelings and that Howard might in fact totally crack up and become a mental case if he thought he was going to jail for an extended period and his children would not be cared for.

I told him I thought this was an inhuman situation, that obviously there was nothing anyone could do, but I assured him once again of my personal feelings and my desire at any time to make any recommendations that would be helpful, but I couldn't and wouldn't say more than that, that the last thing anyone should do would be to try to make any representation that would later make Howard's situation more difficult. I simply said I hoped Howard would trust in my friendship, that somehow I would find some way to assist him or his children if necessary. Bittman said he thought simply on a personal basis that knowing that I still felt compassion for Howard would help give him fortitude to get through the trial and suffer whatever consequences there were.



Charles W. Colson

Special Counsel to the President

Mr. SHAPIRO. That is contemporaneous.

Mr. COLSON. The substance of the discussion with Mr. Bittman was that I explained to him the circumstances under which Hunt had been removed from the White House payroll. I explained to him the steps that had been taken to remove Hunt, that he therefore did not have authority to maintain a safe in the White House, and that therefore the Government was—the Government position undoubtedly would be sustained and that if he argued his motion to suppress on the grounds that Hunt had the right to use and enter his safe, that I would testify as a Government witness against Hunt to that effect.

Bittman told me that Howard was in a very severe depression, that the Government had been very difficult with him in terms of making him stand trial when he didn't feel he was in condition to stand trial. One of his children was on the verge of suicide. I told Bittman that I was Hunt's friend, that I felt real grief over his circumstances.

I told him why I had been unwilling to see Hunt and why I had been unwilling to see Bittman. Bittman told me Hunt was very worried about his children. I said that if I could find—if there was some way I could help with his children, I would.

I told Bittman that anytime that I had an opportunity to make recommendations on mitigation of Hunt's sentence, I would do so. And as a matter of fact, I did subsequently do so to the Federal probation officer. Bittman said that he had been unsuccessful in negotiating a limitation on the number of counts that Howard would have to plead guilty to.

I told Bittman that there was obviously nothing anyone could do. But I told him of my personal feelings and my desire at any time to make any recommendation that would be helpful. I couldn't or wouldn't say anything more than that. If I were to say more than that, or anyone were to, it would make Howard's situation more difficult.

In conclusion, Bittman told me on a personal basis he thought Hunt's knowing I still felt compassion for him and concern for him would help give him the fortitude to go through the trial and suffer whatever consequences there were.

Mr. NEDZI. Why were you the one to convey this kind of information to Mr. Bittman? Was it solely because of your friendship with Mr. Hunt?

Mr. COLSON. I would assume so, yes, sir.

Mr. NEDZI. Was it your conclusion that the termination of this particular meeting that Mr. Hunt was going to plead guilty?

Mr. COLSON. No. I don't know. I think it was, because I think that is what Bittman said. I think he said that at the outset. The issue was whether they would argue a motion to suppress, which I suppose if they argued, I don't know whether that would be inconsistent with a guilty plea or not. I don't know.

Mr. NEDZI. That is the thought that occurs to me, why is there a need for a motion to suppress if the man is pleading guilty?

Mr. SHAPIRO. Mr. Chairman, I can tell you as a man who has been in that position, a motion to suppress if granted might obviate the plea of guilty. It might result in the prisoner's release. It is only after it fails that one really decides that pleading guilty is the appropriate alternate.

Mr. COLSON. One thing I told Mr. Bittman, by the way, Mr. Chairman, was that I wanted him to be sure to understand that my point of

view for whatever it was worth to him was that he should do anything and everything to defend his client in the most vigorous way he knew how, including filing that motion to suppress if he wanted to.

But I explained to him the circumstances which I felt as a courtesy I should do, circumstances that would make that motion very difficult to sustain, presumably.

Mr. NEDZI. Was there any question put to you about involving the CIA in this matter?

Mr. COLSON. No, sir.

Mr. SHAPIRO. Mr. Chairman, I might say this was the conversation in which—I am sorry Mr. Colson failed to remember it—but one of the things that was brought up, and I know he told it to me several times. In the course of the conversation he said, why don't you see John Dean about this instead of wanting to see me?

Mr. Bittman said in response to that question he had not had any contact to Mr. Dean, and as an aside, perhaps an explanation, he revealed the fact that he knew from what had been told to him that Mr. Dean had attended a meeting or meetings at the Attorney General's office pre-Watergate.

This was that conversation.

Mr. COLSON. Yes; I testified earlier that it was during this conversation with Mr. Bittman he mentioned to me these meetings had occurred in the Attorney General's office prior to the Watergate, at which time Dean was in attendance.

Mr. NEDZI. When did you first become aware of the White House request that the CIA provide a psychological—

Mr. COLSON. That would have been on August 3 when Mr. Krogh and Mr. Young replied to my having referred Mr. Hunt's memorandum to them. And the substance of that reply was that, a very simple answer, just saying in response to Mr. Hunt's memorandum. It was for my information. I said in response to Mr. Hunt's memorandum we have already in process the following things, or we already have under way the following things.

One of the things was the psychological profile of Mr. Ellsberg.

Mr. NEDZI. To whom was that memorandum directed?

Mr. COLSON. That is in my opening statement, Mr. Chairman. It was an exchange of memoranda between myself and Mr. Krogh. On July 28 Mr. Hunt set me another, with several items for consideration. I sent that over to Krogh. When Krogh returned the memo to me—or when Krogh answered, rather, on August 3, he said several of the ideas proposed by Hunt including the CIA profile were in process.

Mr. NEDZI. Is that Hunt memo included in these memos that have been turned over to the grand jury and to the prosecutors?

Mr. SHAPIRO. Yes, sir.

Mr. COLSON. Yes, sir.

Mr. NEDZI. What is the reference to psychiatric records in it?

Mr. COLSON. That is exactly what it said.

Mr. SHAPIRO. I remember that. That is all it said. I can see it in front of my face. When I saw the document it was a laundry list of items. I think the last item on that list, there may have been six or seven or eight, or more, was psychiatric records.

Mr. NEDZI. You made no inquiry of Hunt as to what he meant by that?

Mr. COLSON. No, sir.

Mr. NEDZI. How they were to be obtained and whence they were to be obtained?

Mr. COLSON. No, sir. I just took that memorandum, I am not sure I read it all the way through. I saw it pertained to the work Mr. Krogh was responsible for, so I simply bucked the memorandum over to him. I believe I probably wrote something on the top of the memo. I can't find in any of the chronological files any covering memo.

Mr. NEDZI. What did you think the profile was for?

Mr. COLSON. Well, I knew one of the things that was of concern to the White House was to try to find out what Dr. Ellsberg's motives were in releasing all of these documents, and the Pentagon papers. And I assumed that was what it was for, to try to determine what kind of a man he was and why he was doing this, and what his reasons would be for doing it.

Mr. NEDZI. Do you know Donald Segretti?

Mr. COLSON. No, sir.

Mr. NEDZI. Did you have any role at all in the so-called Houston project?

Mr. COLSON. No, sir.

Mr. NEDZI. Were you aware of it?

Mr. COLSON. No, sir.

Mr. NEDZI. That matter was never brought to your attention in any form?

Mr. COLSON. No, sir.

Mr. NEDZI. When did you first become aware of it?

Mr. COLSON. When I read about it in the press in the last few weeks.

Mr. NEDZI. When did you first learn of the break-in at the office of Dr. Fielding?

Mr. COLSON. It was either the week after Labor Day or the week following, I forget.

Mr. NEDZI. You mentioned Mr. Hunt had brought in a batch of pictures to you. You said you didn't want to or didn't have time to look at.

Mr. COLSON. I don't even know that there was a batch of pictures. I know he had a manila envelope in his hands which he started to open and I could see he had a photograph.

Mr. NEDZI. One or more photographs?

Mr. COLSON. Yes. I don't know. I first learned when I talked to Mr. Ehrlichman either later that week or the following week. I don't know which, that was the first time that I learned there had been an attempt to get Dr. Ellsberg's psychiatric records.

Mr. NEDZI. Was a memo ever channeled through you which described or proposed investigative work on the west coast which was then directed to Mr. Ehrlichman?

Mr. COLSON. No, sir. I have read press accounts that I think came out of your committee, I believe.

Mr. NEDZI. The original account appeared in the Post. I don't know where it came from. Indicating that Mr. Ehrlichman had received a memo which included a proposal to burglarize the Fielding office.

Mr. COLSON. I never saw any—

Mr. NEDZI. Ehrlichman subsequently testified he recalled receiving a memorandum which proposed certain investigative activities on the

west coast. But he could not recall whether that memorandum included a reference to the burglary of Ellsberg's psychiatrist's office.

Mr. COLSON. I never saw such a memorandum.

Mr. NEDZI. What was your understanding as to who ordered this break-in?

Mr. COLSON. I don't know, sir.

Mr. NEDZI. Have you any speculation?

Mr. COLSON. I think that would be very unfair. I have seen Mr. Krogh's affidavit. I have testified fully about my knowledge of this to the grand jury that has been convened in Los Angeles County. I was asked a similar question before the grand jury, and did not feel that it was appropriate for me to speculate, which is all that it would be.

Mr. NEDZI. To whom did Hunt submit his expense vouchers?

Mr. COLSON. He submitted them through my office.

Mr. NEDZI. To you personally?

Mr. COLSON. No, sir.

Mr. NEDZI. Who handled it?

Mr. COLSON. My secretary, Mrs. Hall.

Mr. NEDZI. Did he have in effect an unlimited expense account?

Mr. COLSON. No. What he did was to submit—I later learned this after the Watergate, as a matter of fact. What he did was submit every 2 weeks a consultant's report on standard White House form, the hours per day that he had worked on White House matters.

My secretary would initial that and send it in. On four or five occasions he submitted requests for reimbursement for expenses, and those were also initialed by my secretary and sent into the staff secretary's office for reimbursement.

Mr. NEDZI. Was there any audit of his expenses?

Mr. COLSON. Not to my knowledge, sir.

Mr. NEDZI. You were never concerned that this might be abused?

Mr. COLSON. I never had occasion to go into the question of his expenses or his hours.

Mr. NEDZI. Was there any conversation with you relative to the securing of funds for the Ellsberg project?

Mr. COLSON. Yes, sir.

Well, I would say—I answered that too hastily.

As I have responded to the FBI in their investigation, and to the Prosecutors, and to the grand jury, I received a phone call during this period of time. I can't say when, because I don't know when. A phone conversation—I had a phone conversation with Mr. Ehrlichman in which Mr. Ehrlichman asked me to obtain, by my recollection, \$5,000 for Mr. Krogh.

I arranged from outside sources to have \$5,000 delivered to Mr. Krogh.

Mr. NEDZI. What were the outside sources?

Mr. COLSON. Well, it was obtained from a friend who was at that point working on a formation of a committee for—the title of it was a "Committee for a New Prosperity." This was during the period in late August, early September, when we were forming—when I was working full time on the President's economic policy and we were forming a committee to generate public support for the President's economic program known as the Committee for a New Prosperity.

The man who was heading that up and putting that all together for me I thought might have some cash he could make available. When I was first asked about this by the FBI, I couldn't remember who I called. Subsequently I checked around and found out or determined it was Mr. Baroody who was forming this committee. And he delivered the funds to Mr. Krogh as I had asked him to do. I don't know the date on which that happened.

Mr. NEDZI. Mr. Baroody?

Mr. COLSON. Yes, sir.

Mr. NEDZI. Is he connected with the Defense Department?

Mr. COLSON. His brother was Mr. Laird's assistant.

Mr. NEDZI. To whom was the money then given?

Mr. COLSON. I don't know, sir, because I asked Mr. Baroody to deliver it to Mr. Krogh's office. I assume it was delivered to Mr. Krogh, and Mr. Krogh, I guess, has said it was. I think he has said it was.

Mr. NEDZI. What was the name of that committee?

Mr. COLSON. Committee for a New Prosperity, I think.

Mr. NEDZI. When did you first become aware, Mr. Colson, of the charges or the proposal that the CIA be blamed for the Watergate affair?

Mr. COLSON. Whenever it was first published in the newspapers.

Mr. NEDZI. This is not the result of any conversations with anybody?

Mr. COLSON. No, sir. I read about it for the first time in the press in the last month or 6 weeks, I guess, whenever it was first published.

Mr. NEDZI. Did you discuss with anybody at any time the subject of executive clemency?

Mr. COLSON. No, sir.

Mr. NEDZI. You never talked with Mr. Ehrlichman about this matter?

Mr. COLSON. No, sir.

Mr. NEDZI. Do you know Mr. Gerald Alch?

Mr. COLSON. No, sir.

Mr. NEDZI. You have never had occasion to talk with him?

Mr. COLSON. No, sir.

Mr. NEDZI. Do you know Officer Gary Bittenbender of the Metropolitan Police Department?

Mr. COLSON. No, sir.

Mr. NEDZI. Have you ever had any conversation about the allegations that Mr. Alch contacted Mr. McCord for the purpose of suggesting to him CIA defense?

Mr. COLSON. No, sir.

Mr. NEDZI. Mr. Hogan, do you have any questions at this time?

Mr. HOGAN. Thank you, Mr. Chairman. I have a couple.

Mr. Colson, could you speculate on why Mr. Hunt would go by your office after he returned from the Ellsberg break-in on the west coast?

Mr. COLSON. No. Mr. Hunt would frequently go by my office; I mean frequently come by the office and want to see me.

Mr. HOGAN. This is sometime after he went to work for the room 16 group.

Mr. COLSON. That is right. I don't know. I can only speculate that he had half an hour on his hands, as he put it to me, he may have

dropped in to see if he had any messages. My secretary used to sometimes take messages for him. I really don't know.

Mr. HOGAN. You indicated that——

Mr. COLSON. I have asked myself the same question.

Mr. HOGAN. You indicated Mr. Krogh sent a memo to you with the results of the actions that were being taken in the Ellsberg matter:

Mr. COLSON. Not the results.

Mr. HOGAN. The report among other things, the profile.

Mr. COLSON. Right.

Mr. HOGAN. The things they were doing, in other words.

Mr. COLSON. It was a recitation. We have the following things.

Mr. HOGAN. Why would he do that?

Mr. COLSON. I had sent him over Hunt's memo.

Mr. HOGAN. Fine. He was not working for Krogh. You sent him Hunt's memo because he was working for Krogh?

Mr. COLSON. Right.

Mr. HOGAN. So there it is. He is not working for me any more.

Mr. COLSON. I suspect that is what I wrote on the memo I sent over to Krogh.

Mr. HOGAN. He must have had some reason to return it.

Mr. COLSON. He didn't return it to me.

Mr. HOGAN. I mean, to send you a return memo on it.

Mr. COLSON. You will have to ask him. I don't know.

Mr. HOGAN. You don't have any idea?

Mr. COLSON. I assume it was a courtesy, as a reply to my having backed it over to him. I don't recall any subsequent memos from Mr. Krogh.

Mr. HOGAN. What precisely was the forgery in the cable?

Mr. COLSON. I don't know, sir.

Mr. HOGAN. How do you know it was a forgery?

Mr. COLSON. I think Mr. Hunt made it clear to me what he had done, which was to piece—I gather from what he said, was to piece together a couple of cables. As I say, I don't even know I actually saw it.

Mr. HOGAN. How do you remember so well, Mr. Colson, the date of Mr. Hunt's termination?

Mr. COLSON. Because there was a memorandum prepared by my assistant which we dug out of the files on June 19. It was quite clear what the date was from that memo.

Mr. HOGAN. Wasn't he working for the committee at the same time he was working for the White House?

Mr. COLSON. I don't know. I hope not.

Mr. HOGAN. Had he ever dropped by your office during January, February and March 1972?

Mr. COLSON. The only times that he did are contained in that memorandum of June 20. The one meeting when he brought Mr. Liddy in. The time that I brought him in—once he came into say that his work was running out in the White House, and he hoped to get involved and wanted to help in the election. Another time he brought Mr. Liddy in. Another time he sent me the memo about interviewing Dita Beard and I thereafter called him in.

I don't know if there were others reported in that memo. But that is the substance of it. I saw him in the corridor a couple of times.

Mr. HOGAN. What was the reason for his separation?

Mr. COLSON. For his separation from the White House?

Mr. HOGAN. Yes.

Mr. COLSON. I assume because he was going to go over and work with the committee. The circumstances around that are that he either came to me and said that he was going to be leaving, or I asked him whether he was going to be leaving and working at the committee. I don't know which.

Mr. HOGAN. Why would you ask him whether he was leaving to go to work at the committee?

Mr. COLSON. I had heard—well, assuming I did, which I am not sure I did, but I had heard that he was doing some—someone had told me he was doing some work at the committee. I knew in late March that he was. I am not sure who told me or how I knew. Maybe he told me. I just don't really remember.

What I do remember is that he said to me, now that I am going off, or words to this effect, now that I am going off the Federal payroll, is there any possibility that I can go back and revise my original retirement from the CIA, because when I retired from the CIA I did not elect survivor's benefits. I didn't take the survivor benefit option. I have a bad ulcer condition and my life expectancy maybe isn't that good, and I am sure I should have thought more of Dorothy's future.

Now that I am going off the Federal payroll, is it possible for me to have the opportunity to reinstate my active status, or have reinstate my active status in such a way I can elect the survivor's benefit option? When he told me that I asked him to give me a memorandum explaining the nature of his retirement from CIA so that I could turn it over to our personnel people in the White House and see if it were possible for him to revise his survivor's option benefit election.

By the way, I think it is important that I tell you this, because it will help you to understand what happened. Mr. Dick Howard, who is my administrative assistant, took that memorandum from Hunt and sent it in to the staff secretary with a covering notation, Mr. Hunt has been employed by us and has done a good job and what have you, and he is now going to be terminated. He has asked if he can revise his survivor's benefits and attached his memorandum.

March 30, 1972.

Memorandum for Bruce Kehrli:

We would like to accommodate Howard Hunt on the attached and would like to do it right away and then totally drop him as a consultant so that 1701 can pick him up and use him.

Howard has been very effective for us, but his most logical place now is consulting 1701. The attached could be a major problem and we would like to do everything we can to accomplish this and help him in this way. Please let me know.

W. RICHARD HOWARD.

Apparently, and this is what was reconstructed after the Watergate, when we found out what had happened, because that memo was attached, the memo from my office to terminate Hunt was not processed through routine fashion, was not processed in a routine fashion, which would have resulted in his task being taken and all the other steps which you normally do, but rather was referred to some of the

personnel people and then to CIA to see whether it was possible to change his survivor's benefits.

In other words, it was taken out of the normal routine processing by virtue of Hunt's request. Apparently when it came back with the answer it couldn't be revised, the staff's secretary's office failed to do the normal processing which would have resulted in the procedures they go through when someone leaves the staff.

Mr. HOGAN. So that there was some, at least, indication that Hunt was working for the committee at the same time he was working in the White House?

Mr. COLSON. I don't know if it was at the same time. As I say, I became aware in later March that he was either going to work for the committee or wanted to work for the committee or was about to, or was working for them, but in any event should go off the White House payroll.

Mr. HOGAN. I think, wasn't it in January or February you said, Mr. Colson, you made a call to Magruder with regard to the plans?

Mr. COLSON. Right.

Mr. HOGAN. Of Hunt and Liddy. Why did you feel it was your responsibility to make this call?

Mr. COLSON. Well, that memo relates, it was late one evening, my secretary came in to me and she said, Howard Hunt is here and he wants to see you. And it was like 8, maybe 8:30. I had a long hard day and I wanted to go home, and I said, I just can't see Howard tonight. He said, he has Gordon Liddy with him and he wants to talk to you and said it will only take a couple of minutes.

I said, I just don't want to, I don't have time. She said, well, Howard says he really needs to talk to you, it will only take 2 minutes. So I said, fine. He came in the office, I don't even know if they sat down. Hunt said his friend Liddy was across the street, that he was sitting around on his duff with nothing to do because he couldn't get any approval of his plans, that they had laid out a plan for intelligence and for convention security.

I said to him, I said, don't even bother to get into that, that is not my area of responsibility. But if you have trouble seeing anybody, I will call Magruder for you and ask him to see you. I called Mr. Magruder, all I asked him to do was see Liddy, and basically it was to get him out of my office, if you want an honest answer.

It was the easiest, most convenient way I could get them out, and I simply said to Magruder, they have got a plan, Liddy has a plan, he tells me he is having trouble getting approval for it, sitting around doing nothing. For God sakes, will you listen to him, or consider it or do whatever you want to do with it. I don't even know what it is.

I specifically did not. I specifically told that to Magruder because I didn't want to endorse a plan I didn't know anything about.

Mr. HOGAN. Who on the White House staff would have responsibility for that area?

Mr. SHAPIRO. Which area are you referring to, counsel?

Mr. HOGAN. The subject of the conversation between Mr. Hunt and—

Mr. COLSON. I don't think anyone would have. That would have been a committee responsibility, was a committee responsibility.

Mr. HOGAN. You said it wasn't in your area of responsibility.

Mr. COLSON. Yes; meaning there was a monstrous campaign organization being created for the reelection of the President. I didn't want to get involved or didn't have time to get involved in it.

Mr. HOGAN. You had previous reference to the Bremmer report in the newspaper, Mr. Colson. Do you care to give your version of that?

Mr. COLSON. Yes, sir.

Mr. SHAPIRO. Before he does, I assume Mr. Hunt said something about that yesterday from the press accounts. We have been trying to determine precisely when it is that he said that he talked to Mr. Colson about this. It would be very helpful if we knew that, because if it is what I suspect about this, I think we can demonstrate precisely the reason why some of these conflicts may occur, and how it is possible the conflicts can occur.

Mr. HOGAN. I don't know as I can recall exactly what Mr. Hunt said yesterday. I will try.

Mr. Chairman—

Mr. NEDZI. Go ahead.

Mr. SHAPIRO. There were conflicting reports, the report in the paper said within 2 hours after the event that Mr. Hunt was called by Mr. Colson.

Mr. COLSON. You are referring to the Washington Post article.

Mr. HOGAN. Yes; it was an AP release, I believe.

Mr. COLSON. Bernstein special.

Mr. HOGAN. It ended up on the worst one I saw. At any rate, I believe there was also a version, and I think this is Mr. Hunt's version, that it was the next day.

Mr. SHAPIRO. That is all we wanted to know.

Mr. HOGAN. That he received a call from Mr. Colson. But I can't swear to that being the precise answer, but it is in that area.

Mr. COLSON. Well, the newspaper account you referred to alludes to some testimony that Hunt apparently gave, I gather, at the Senate Select Committee. And I assume is the same testimony, I would imagine it is the same testimony he gave to you, which says, which is to the effect that I asked him to do this the next day. Is that correct?

Mr. HOGAN. To the best of my recollection. We don't have the transcript. It isn't ready yet.

Mr. COLSON. Okay.

Mr. HOGAN. We would appreciate your version of it.

Mr. NEDZI. What are you referring to?

Mr. HOGAN. To the Bremmer report.

Mr. NEDZI. Okay.

Mr. COLSON. Well, I can tell you the following.

Mr. SHAPIRO. This is the one we are ready for, let me say.

Mr. HOGAN. All right.

Mr. COLSON. I can tell you that very shortly after the attempted assassination of Governor Wallace the President called me into his office in the Executive Office Building, somewhere around 5 p.m. The President was very concerned that he had not been getting reports from the FBI regarding their investigation.

He wanted to be absolutely certain that custody was taken of Mr. Bremmer at once, or the assailant. I don't think at 5 p.m. they knew who the assailant was. The President remembered the problem that

had occurred in the assassination of President Kennedy when Mr. Ruby shot Mr. Oswald, and thereby foreclosed any investigation of why Mr. Oswald shot President Kennedy.

The President was insistent that the Bureau, FBI, get involved and get involved at once and that they take custody of Mr. Bremmer—let me correct that, take custody of the assailant. At the time, the first reports we had, and that would be between 5 p.m. and 6 p.m. that evening, were that the assailant was in the custody of the Maryland State police and very shortly thereafter we learned that he was taken to a jail which had very limited security, a couple of guards, a county jail.

Also, it was in the hands of a county official who was running for Congress. This was his sort of big chance at publicity. The President was very, very concerned that the FBI move in and take custody and protect the assailant, who we learned was Mr. Bremmer, at the earliest possible moment, and as a matter of fact on orders that I conveyed to the FBI, Mr. Phelps, in the presence of the President, the FBI put agents with Mr. Bremmer, and as a matter of fact agents stayed in the cell that night to protect Bremmer so there wouldn't be a repetition of the Oswald situation.

The President was also concerned there be an immediate and thorough investigation by the FBI. I stayed with the President that evening, according to the White House records I have been able to check, until about 9:10 that evening. We had been unable to reach Mr. Pat Gray, then the Acting Director of the FBI. He was driving in his car from New London to Washington and couldn't be reached.

But I was in constant communication every 20 minutes or half hour with Mark Felt, who was the assistant director of the FBI. One of the instructions which I gave to Mr. Felt on orders of the President, and I told Mr. Felt it was on orders of the President, was that Bremmer—once we knew it was Bremmer and knew who he was—that Bremmer's residence, car and anything else found on him be immediately protected by the FBI.

In other words, secure his apartment. Coordinate office is the phrase I use. Secure his car. Take his car into custody, to be sure that no evidence was destroyed or misplaced, to be certain that the FBI had all of the evidence.

I have subsequently talked to Mr. Felt as a result of the first Washington Post story, and Mr. Felt confirms that I was the one acting on orders of the President, who ordered him to cordon off the apartment that Bremmer occupied in Milwaukee.

It was sometime during the evening, in the middle of the evening, 7:30, 8:00, while I was with the President, while I was in the President's office and calling from the President's office, and Mr. Felt was calling me back in the President's office, and on two occasions I put the President on the phone with Mr. Felt, because I wanted Mr. Felt to be sure to know that it wasn't just me calling but it was the President, and the President wanted that apartment secured.

If you may remember what happened, the FBI went into the apartment, investigated it to see what was in it, and then left and left it unguarded. There were news reports coming in that newsmen and curiosity seekers and sightseers were going through the apartment, rummaging through the apartment.

As Mr. Felt had said, the FBI goofed.

And when those news reports were coming over, I remembered calling Mr. Felt and saying the President wants that apartment cordoned off and wants the premises protected and secured by the FBI. Mr. Felt recalls all of this. According to the White House records my car picked me up at the President's office at ten minutes after nine. I arrived at home at 9:30 or 9:25.

When I got home the President was on the phone to me, I talked with him for some period of time. Then Mr. Gray arrived and called me and reported to me that everything was under control. Agents were in the cell, that I should reassure the President that Bremmer would be protected and that all the evidence had been secured and his apartment had been protected, the car had been protected, all the evidence was secured, a fact which I reported back to the President.

During the course of the evening, Mr. Felt told me of the things that had been found in the apartment and in the Bremmer car. So there wasn't any mystery in my mind as to what was in the apartment. About 10:30, I think, my wife was sitting there, I called a few people because I was intensely curious as to what would motivate a man like Bremmer to do this.

I called people who I thought might be able to shed some light on it. One of the persons I called was Mr. Hunt. I asked him his opinion, what was it that motivated a fellow like Bremmer, what would cause him to do this? During the course of the conversation with Hunt, I was interrupted because the President called me again, and I probably said to Hunt I will call you back later, I will be back to you.

I hung up and didn't call him back. That was the sum and substance of the conversation with Hunt. And it took place sometime between 10:15 to 10:30 or a quarter of 11. It had to be in that time period. I never ordered Mr. Hunt to go to Milwaukee, and I never suggested it. I never said anything that could be remotely construed that way.

Obviously, the next day the FBI had taken every piece of evidence out of that apartment. They had taken it out that night, as a matter of fact. They secured the premises. They had already interviewed Bremmer's parents. I remember getting that report during that night. But as I say, I made the call to Hunt during that evening, and then because that was a contact with Hunt during the year 1972, I included it in the June 20 memorandum which I turned over in early May to the Federal Prosecutors and to the Senate Watergate investigators.

Mr. NEDZI. Did Hunt call you back?

Mr. COLSON. No, sir.

Mr. NEDZI. On this subject?

Mr. COLSON. No.

Mr. NEDZI. His testimony yesterday indicated you asked him to go out there and started to make arrangements but couldn't get a flight out and then received news reports that the FBI had been in there and reporters had been in there and then called you to advise you that there would be no reason for this kind of mission.

Mr. COLSON. There certainly wouldn't have been any reason for it, I will agree with that, Mr. Chairman. I can only say to you I talked with Mr. Felt at the FBI, and Mr. Felt said I was the one acting on the President's orders who instructed him to have that apartment

cordoned off that night, and evidence protected, and no one to be allowed in.

Mr. NEDZI. Mr. Colson, why was it that you were placed in charge of these contacts with the FBI when normally this would fall into Mr. Dean's jurisdiction, would it not?

Mr. COLSON. Yes, normally that would. And I can't answer that, other than the President called me in, Mr. Haldeman was there also. Mr. Haldeman would perhaps normally have done this. I don't think Mr. Dean—Mr. Dean didn't have any direct contact with the President at all of any kind during this period of time. This was May of 1972.

I think the man that the President normally would have dealt with was Mr. Haldeman. The reason I was called in was Mr. Haldeman had to leave early that evening or had an engagement that evening. The President called Haldeman in first and then called me in, and I stayed with the President after Mr. Haldeman had to leave.

We had dinner together that night in his office in the Executive Office Building.

Mr. NEDZI. May we just go off the record right now.

[Discussion off the record.]

[Recess.]

Mr. NEDZI. Mr. Colson, to get back to when Mr. Hunt was first introduced to Mr. Ehrlichman, would you relate to our benefit that conversation or that meeting, the circumstances of that meeting?

Mr. COLSON. Yes. As best I can, Mr. Chairman. I had talked to Mr. Buchanan at Mr. Ehrlichman's direction to see if Mr. Buchanan would be willing to handle the Pentagon Papers assignment within the White House. Mr. Buchanan felt very strongly that he was not the man for the job. I sent a memorandum to Mr. Ehrlichman on the 6th of July telling him that I had met with Buchanan, and Buchanan didn't want to do it.

In the same memo, I said, why don't you meet with Hunt, because I have had a long talk with him and he is eager to do this, and none of the other candidates that had been proposed by me in the earlier memorandum I had submitted to Mr. Haldeman were available.

[The memorandum follows:]

JULY 6, 1971.

Memorandum for : John Ehrlichman.

From : Charles Colson.

I have just had another conversation with Buchanan who very strongly believes that he is not the man for this project. I doubt that I am going to be able to persuade him. I think it will take something from you or the President.

We probably should also think carefully whether in this frame of mind, he is indeed the right person.

I have had a long talk with Howard Hunt who is dying to get with it and will drop everything if we ask him to. I really think you perhaps should spend a few minutes with him to assure yourself as to the kind of man we're getting.

Mr. COLSON. Mr. Ehrlichman, I believe, after that memo called me and said he would like to meet Hunt. I took Hunt over to his office. I don't believe I stayed for the discussion. I may have, but I think I left them alone to talk. It would be a purely get-acquainted discussion, or I assume an opportunity for Mr. Ehrlichman to take a measure of the man and see if he was the man they wanted for the job.

It was after that meeting, and I think the same day, although it may have been the next day I talked to Mr. Ehrlichman on the phone, and he said, why don't we bring Hunt on board.

Mr. NEDZI. You have no recollection of the conversation of the first meeting?

Mr. COLSON. You mean the meeting with Ehrlichman and Hunt?

Mr. NEDZI. Ehrlichman and Hunt.

Mr. COLSON. I think I left Hunt in the room with Ehrlichman. I think I left them together.

Mr. NEDZI. To jump ahead again, Mr. Colson, chronologically, during the telephone call, I believe it was, that Hunt made to you, indicating disappointment, reflecting disappointment about things not being done right by him, did he indicate to you how much money he was actually seeking?

Mr. COLSON. No, sir.

Mr. NEDZI. It was a general complaint?

Mr. COLSON. General complaint.

Mr. NEDZI. Did you take that complaint up with anybody at the White House or anyplace else following the call?

Mr. COLSON. Well, I took the dictabelt transcript of the call and sent it down to Mr. Dean immediately. And I was frankly very upset by that call. All that I have to say to you, Mr. Chairman, that I assume that he was talking about commitments that had been made by the Committee for the Re-Election of the President who had employed him, and I assumed that while he was standing trial, and hadn't been convicted, that they were probably helping to support him, and he was complaining about that.

I didn't think it was a very good thing, and I didn't like it. And it disturbed me. And I sent it to Dean and said, you damned better well find out what is going on, what those guys are doing, referring to the Committee for the Re-Election.

Mr. NEDZI. Was that the first time you had indication that the Committee to Re-Elect the President or somebody was actually providing support payments for defenses in the Watergate matter?

Mr. COLSON. Yes; although all that was really said was commitments have been made which haven't been kept, or words to that effect. I really couldn't say that was evidence that somebody was actually making payments. I don't know when I first really realized that. I certainly surmised it from that conversation.

Mr. NEDZI. Have you any knowledge at this time as to who is involved in making these payments?

Mr. COLSON. No more than what I have read, Mr. Chairman.

Mr. NEDZI. No information as a result of meetings or conversations with anyone?

Mr. COLSON. No, sir.

Mr. NEDZI. Have you any knowledge as to how money was delivered to the defendants?

Mr. COLSON. No, sir. No knowledge of my own. Again, this is what I have read.

Mr. NEDZI. Do you know anything about a call from Mr. Hunt to Paul O'Brien in March 1973? Apparently along the same lines that his call to you in December was, or November?

Mr. COLSON. I have, of course, heard now the testimony to that effect, but I knew nothing about it.

Mr. SHAPIRO. Mr. Chairman, just so the record is complete, I think you ought to be advised of this fact. Mr. Colson was out of the country from mid-February to approximately the 8th of March. On his return, shortly before he left the White House, Mr. Dean asked him if he would see Mr. Hunt. By that time Mr. Colson was consulting with me on this matter. And I told him that he could not see Mr. Hunt, but that I would see Mr. Hunt. I arranged, I had Mr. Colson arrange through Mr. Bittman for Mr. Hunt to come see me, and I saw Mr. Hunt on the 16th of March.

I had an hour's long conversation with him. Following that conversation, I advised Mr. Colson that he was to have no communication whatsoever with Mr. Hunt, that none of the matters disclosed to me would in any way be disclosed or passed on to anybody else, that I had advised Mr. Hunt that none of the matters that he communicated to me would be transmitted to anyone else, and that he would have to find some other way of making his position known to whomever he wanted to make it known.

I assume that following his turndown by me with regard to whatever communications he wanted me to transmit, that he then had a conversation with Mr. O'Brien. But my conversation with him took place on the 16th of March. So the record is clear on that; I think you ought to be apprised of that.

Mr. NEDZI. I appreciate that.

Mr. Colson, did you take any part in the hiring or compensation of any of the attorneys involved in this matter outside of your own?

Mr. COLSON. No, sir. Don't ask me what my own fee comes to.

Mr. NEDZI. That was my next question. How is your own being compensated?

Mr. COLSON. With blood.

He is my law partner. He is stuck with a charity case.

Mr. NEDZI. Are any—

Mr. COLSON. I am glad to get that on the record.

Mr. NEDZI. Are any provisions being made for outside compensation with respect to your counsel?

Mr. COLSON. No, sir.

Mr. SHAPIRO. I wish there were, Mr. Chairman.

Mr. COLSON. We would be happy.

Mr. NEDZI. Off the record.

[Discussion off the record.]

Mr. NEDZI. On the record.

Mr. COLSON. So the record is complete, you should be aware that while I was in the White House it became necessary to retain outside counsel for the purpose of a deposition that was taken of me by the Democratic National Committee. You may recall the Justice Department wanted to represent me in that proceeding but could not because of the possible conflict where Judge Ritchey ruled they could not.

I did obtain outside counsel, Mr. Thomas Hogan, who was referred to me by Mr. Dean, who later submitted a bill which I gave to Mr. Dean. That was for the purpose of the deposition taken while I was employed by the White House.

Mr. NEDZI. Did you have any relationship with the Secret Service to report any political intelligence to you?

Mr. COLSON. No, sir.

Mr. NEDZI. You never received any intelligence reports from the Secret Service?

Mr. COLSON. No, not from the Secret Service. Mr. Dean one day in April or May 1972 walked into my office and said that he had received some information he thought I might find helpful, that I was not to use it, however, until June, and he left me a little xeroxed copy of a report on a person who had been involved in Senator McGovern's fundraising effort.

He never told me where it came from. I subsequently learned it came from the Secret Service.

Mr. NEDZI. What was the substance of that report?

Mr. COLSON. It dealt with an individual who was raising funds in Philadelphia who had had some Communist connections in the past.

Mr. NEDZI. Was that the only time you received that kind of information?

Mr. COLSON. Yes, sir, although I want to be very clear, I did not know it was from the Secret Service when I received it. I don't know of any other information I ever received that originated in the Secret Service.

Mr. NEDZI. What did you do with that information?

Mr. COLSON. I gave it to Mr. Clauson, who was a member of the White House staff.

Mr. NEDZI. Nothing further?

Mr. COLSON. We attempted to do some checking on it later and see what information we could develop. Mr. Clauson and I both tried to generate some press interest in it but failed.

Mr. NEDZI. Your instructions to Mr. Clauson were to attempt to generate some press interest in it?

Mr. COLSON. If there was a story to be made, we were at that time being accused of all sorts of things with respect to fundraising. This was an area that bore scrutiny—it would be something that we might use in the way of countering a lot of the attacks that were being made on the Nixon campaign fundraising.

Mr. NEDZI. Did you request Dean to sit in on your interview with the FBI?

Mr. COLSON. I don't believe I did, Mr. Chairman. I was glad that he did. I viewed him as my counsel, in effect. He was the White House Staff counsel. I was glad to have him sit in. I don't know whether I requested it or whether he volunteered it. I have an idea he volunteered it, because he asked me to come to the interview in his office, and it was conducted in his office. So it never really was much of an issue whether he would sit in or not. I just assumed. He was the White House counsel, the counsel, the President's staff counsel. If there were any legal problems that came up they were the kind of things you would always refer to him. He was investigating the Watergate. He has not testified, but it is a fact, before the FBI interviewed me I asked him to arrange to have the FBI interview me because I was very, very sensitive to the fact that I was being unfairly and inaccurately accused in the press of having been involved in the Watergate.

So I was very eager to tell my story.

Mr. NEDZI. At what time did you make this request?

Mr. COLSON. Immediately after the first story of my alleged involvement.

Mr. NEDZI. At the time the memorandum was prepared?

Mr. COLSON. Yes, sir. I think that day, as a matter of fact.

Mr. NEDZI. Is this an accurate quotation of one of your memoranda in yesterday's Washington Post regarding Harold J. Gibbons?

Mr. COLSON. Yes, sir.

Mr. NEDZI. Who worked with you on this project?

Mr. COLSON. No one.

Mr. NEDZI. Did you personally uncover this?

Mr. COLSON. No. I was informed about that, and thought it was the proper thing to refer it to counsel, which I did.

Mr. NEDZI. By whom were you informed?

Mr. COLSON. May I consult with Mr. Shapiro a minute?

Mr. NEDZI. Yes.

Mr. SHAPIRO. There may be a legal objection to our disclosing that information.

Mr. COLSON. May I check and come back to you on that, Mr. Chairman? My understanding is anyone who provides information about tax cases is permitted to remain anonymous.

Mr. NEDZI. Provide information to whom?

Mr. COLSON. To the U.S. Government.

Mr. NEDZI. Anybody?

Mr. COLSON. I think if he presents it to an official of the U.S. Government for transmittal to the Internal Revenue Service, yes, sir. But I would like to check that if I may before I put someone in a position contrary to his rights under the statute, put him in an awkward position.

Mr. NEDZI. Well, let the record show at this time Mr. Colson is going to take this under advisement and provide us with a response on this particular matter at an early date.

Mr. COLSON. Yes, sir.

Mr. NEDZI. Is the other memorandum which appears in yesterday's Washington Post also accurate—the one from you to John Dean concerning Jack Anderson?

Mr. COLSON. Yes, sir.

Mr. NEDZI. How did you obtain that information?

Mr. COLSON. A private investigator in New York phoned and told me that, and I transmitted it to Dean.

Mr. NEDZI. Why did you transmit it to Dean?

Mr. COLSON. He was the White House counsel. If there is information of that kind, that would be the kind of thing that he normally would have responsibility for.

Mr. NEDZI. Are you persuaded the information is accurate?

Mr. COLSON. I haven't the slightest idea whether it is accurate.

Mr. NEDZI. Do you believe it is accurate?

Mr. COLSON. No.

Mr. NEDZI. Did you believe it was accurate at the time you got it?

Mr. COLSON. I never paid any attention to it. I simply transmitted it to Mr. Dean because it was the kind of thing he would check into normally in the White House. If you received that kind of information it would be the normal thing to pass it on to Mr. Dean.

Mr. NEDZI. Why did you resign, Mr. Colson?

Mr. COLSON. Well, I was going back through my calendar book the other day, Mr. Chairman, to try to reconstruct some of the dates, when all of these things happened. I found November 7, of 1971, a notation in my book which said 2 years down, 1 to go.

When I went into the White House I planned to go in and stay through the first term. I had had to resign from a law firm that I spent 8½ years building up myself. I started it with one other lawyer. When I left there were 25 lawyers, and it was a very successful law practice.

I took a very substantial reduction in income to go into the White House. I had incurred some debts. I had a personal reason for wanting to leave the White House—I had to live off some of the money I saved before I went into the White House, rather than incurring debts. After 3½ years in that place, I felt burned up. And I just didn't think I could keep up the pace of staying in the Government after the election.

I also didn't think it was fair to my family, children growing up, and I wanted to leave. I was very flattered that the President offered me other positions and urged me to stay, but I didn't want to.

Mr. NEDZI. What other positions?

Mr. COLSON. In the White House staff.

Mr. NEDZI. Mr. Hogan?

Mr. HOGAN. I have no further questions, Mr. Chairman.

Mr. NEDZI. Mr. Colson.

Mr. SHAPIRO. I was hoping you were going to ask him one more question.

Mr. NEDZI. Well, suggest it to me and I might ask it.

Mr. SHAPIRO. I was hoping you would ask him whether or not that list of 20 names, that opponent priority list which is alleged to have come out of his office actually did, which was in the Washington Post.

Mr. NEDZI. Well, do you care to respond to your counsel?

Mr. COLSON. I don't believe I ever saw that list before it was introduced in the Senate committee proceeding. I have written to the Senate committee asking them to please correct the record. Mr. Dean has now three times testified that it is my list. It was not. I didn't write it. No one on my staff wrote it. The typewriter is different than the typewriter that anyone in my office used. The language I have never seen before, including the reference to one of your colleagues, Mr. Conyers, I have never seen that statement anywhere.

To be perfectly honest, I am very upset about this, and have sent letters to every one of the members of the Senate Select Committee, but I don't seem to be able to get the record straightened out. That list of 20, the opponent priority activity list, is not mine. Apparently it is an enclosure to a memo Mr. Dean wrote, or part of a project Mr. Dean was undertaking.

The list that was maintained by Mr. Bell in my office, now deceased, was a list we used primarily by the social office and the personnel office. Mr. Bell used to maintain a list of the supporters of the President and opponents of the President, and that is what it was called.

It was a list where people could screen when they were looking for prospective White House dinners or prospective appointments to boards and commissions. That was the sole purpose of it. From that list Mr. Dean, or obviously someone made up another list and wrote

some very colorful things about some people, some highly defamatory things.

That was not my list.

Mr. NEDZI. Any speculation at all as to who might have been involved in that project?

Mr. COLSON. No, sir.

Mr. NEDZI. Is there anything else you would like to state for our record in order to make it complete and accurate?

Mr. COLSON. Yes, I think so, Mr. Chairman, just in a closing statement, if I may. As I try to think back over the past almost 5 hours that we have been doing this, there seemed to be two areas at least in my mind—three areas in which there are significant discrepancies in the testimony you have received from others and that you have now received from me.

In the case of the Bremmer situation, I think—I believe I have explained the circumstances in such a way that it would make the story just too—not only implausible but impossible.

I talked with Mr. Felt after that story first appeared in print. He said it is preposterous. He said based on what you were telling us that night, you could not have wanted anyone to go out there, anywhere near that apartment. He said your orders to us were so strong we would have shot anybody who went near the place.

Mr. NEDZI. When was that disclosed to you?

Mr. COLSON. What is that, sir?

Mr. NEDZI. Mr. Felt, your conversation—what was the date of that?

Mr. HOGAN. Do you mean the newspaper story?

Mr. NEDZI. Yes.

Mr. HOGAN. I believe you have it there, don't you, Mr. Colson. Mine is back in the office. I don't have it with me.

Mr. COLSON. It was June 21. And after that story was in print I called Mr. Felt that day and reconstructed the events that had taken place, actually I reconstructed them before the story was in print because the reporter was calling about it, and I thought it was such an absolutely unbelievable and preposterous story that I could explain the facts to him and maybe he wouldn't print it, but that wasn't the case, unfortunately.

He printed it anyway. The other two areas where it seems to me there are discrepancies involve the Brookings episode and the forged cable. I can't account for discrepancies in testimonies that involve recollections that go back a long period of time. You asked me earlier if I thought anyone was lying. I think it would be very injudicious of me to accuse someone of lying. I suppose it is easy enough for someone to get an interpretation. It is easy enough for someone to misunderstand a statement or misunderstand an instruction.

It is possible, it is not likely. I think it is much more likely that the kind of thing happens that happened with regard to the Bremmer story. People's recollections fail them. In the case of the Bremmer story, I am able, Mr. Chairman, to, I think, document the impossibility of that, or certainly the impossibility of anyone in a rational, of a rational mind proposing the next day to send someone to an apartment that had been secured by the FBI with the most vigorous orders the President of the United States could lay down that no one was to be allowed into that apartment.

To send someone after that would be sort of beyond anything I could imagine any rational person doing. The other two episodes I can only say that as you go back and try to recount things that happened a long time ago, it is very difficult. I suppose it is impossible.

It is not likely, in my view. But I think the difficulty in any situation of this kind is in trying to reconstruct different people's perceptions of things at different points in time, and I think that I find it unfortunate there is obviously some discrepancy in the testimony you have received.

As I say, in one case it appears to me to be totally impossible. In the other two cases I think it is obvious instances of things being said which are possible to be misconstrued. I don't believe there are any others. I hope there are no other discrepancies.

Mr. NEDZI. Do you have anything else?

Mr. HOGAN. No.

Mr. NEDZI. I want to thank you very much. The committee will stand recessed until further call of the Chair.

Mr. COLSON. Yes, sir.

[Whereupon, at 2:50 p.m., the committee was adjourned.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Monday, July 9, 1973.

The subcommittee met, pursuant to adjournment, at 10:37 a.m. in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order.

This morning we are continuing our hearings on intelligence matters, and we have as our witness Mr. Tom Charles Huston, former member of the White House staff.

Mr. Huston, if you will rise, I will administer the oath.

[The oath was administered by Mr. Nedzi.]

Mr. NEDZI. Please sit down.

Mr. Huston, do you have a statement of any kind you would like to make to the committee?

Mr. HUSTON. No, sir.

Mr. NEDZI. If not, could you tell us what your assignment in the White House was at the time we are talking about?

**TESTIMONY OF TOM CHARLES HUSTON, FORMER WHITE
HOUSE STAFF MEMBER**

Mr. HUSTON. From January 1969 until August of 1970, I was a staff assistant to the President, assigned to the speechwriting and research staff; from approximately August 1970 until I left the White House in June of 1971 I was associate counsel for the President, in Mr. Dean's office.

Mr. NEDZI. Did you work for Mr. Dean?

Mr. HUSTON. From August of 1970 until June of 1971.

Mr. NEDZI. Can you describe a little more specifically what your responsibilities were in that assignment?

Mr. HUSTON. When I worked for Mr. Dean and subsequent to this period?

Mr. NEDZI. Both times, when you first went on the staff, and when you began working for Mr. Dean.

Mr. HUSTON. I was principally a speechwriter, although on a number of occasions I would receive special assignments from the President through either Mr. Haldeman or Mr. Ehrlichman, as I did in the case of the intelligence matters before this committee. When I worked for Mr. Dean, my principal responsibilities related to conflict of interest clearances, reviewing executive orders, the routine things in the counsel's office, because he had taken over the responsibilities in the internal security of the domestic intelligence area that I had had prior to that time.

Mr. NEDZI. Who had taken over the responsibilities?

Mr. HUSTON. Mr. Dean had.

Mr. NEDZI. He took over the responsibilities which you had?

Mr. HUSTON. Yes, sir, when he came to the White House in July or August 1970.

I continued—I should clarify that I continued to be the contact person at the White House through whom intelligence reports would come into the White House, and then I would see that they were routed to those people who might have interest in them. As far as operational matters of the type I was involved in in June and July of 1970, John took those responsibilities over when he came to the White House as counsel.

Mr. NEDZI. When did you first become involved in intelligence matters?

Mr. HUSTON. Well, initially I think it was June 1969, when the President, through Mr. Haldeman, asked me to look into the question of the degree of foreign Communists' financial support of the revolutionary protest movement in this country.

We went over to the FBI, Domestic Intelligence Division, where I had a briefing. I went out to see General Cushman of the CIA and explain to him what the President was asking for, and asking him if CIA had any information on this subject they could make available to me. I received information from the CIA and the FBI, prepared a report, which I then sent through staff channels—and I don't remember—I think, it went through Mr. Ehrlichman rather than Mr. Haldeman. I never heard anything more about that.

Mr. HÉBERT. Mr. Huston, I want to interrupt now for clarification to understand exactly your references as to whom you talked. Several times now since you started your testimony you referred to "the President wanted," "the President wanted." Did the President ever tell you what he wanted personally?

Mr. HUSTON. No, sir. With respect to this report, I was provided a copy of a memorandum from the President to Mr. Ehrlichman asking him to have me undertake this assignment.

Mr. HÉBERT. Did you see a copy of a memorandum signed by the President to Mr. Ehrlichman designating that you be assigned to this with the President's signature?

Mr. HUSTON. It wasn't signed by him. I believed it to be his handwriting. I have no direct personal knowledge other than that.

Mr. HÉBERT. I am not trying to dispute what you are saying. All I am trying to do is get this thing in line.

Mr. HUSTON. Yes.

Mr. HÉBERT. You had no knowledge the President personally knew anything about the matter we are discussing up to this point. You said the President asked you to do this through Mr. Ehrlichman?

Mr. HUSTON. That was my understanding, based on the memorandum that was provided to me.

Mr. HÉBERT. It was your understanding, but you didn't know it to be a fact?

Mr. HUSTON. Yes, sir.

Mr. HÉBERT. When you talk about the President, saying he told you or he didn't tell you, or else somebody told the President told him to tell you.

Mr. HUSTON. Yes.

Mr. NEDZI. Mr. Huston, how did you happen to be hired by the White House? On whose recommendation?

Mr. HUSTON. Well, I had known the President since 1966, and had done some work in connection with his activities in 1966, and then I had known Pat Buchanan, who was then working for the President in New York. In 1967, I went in the Army and during that period I maintained periodic contact with Pat Buchanan, and then he recommended to Mr. Haldeman that I be hired, and I was hired then after I got out of the Army as a speechwriter.

Mr. NEDZI. You mentioned in June of 1969 you prepared a report?

Mr. HUSTON. Yes, sir.

Mr. NEDZI. To whom was the report given?

Mr. HUSTON. I frankly don't remember. I have no record of it myself.

I think it was probably given through Mr. Ehrlichman, although the normal staff channel was to go through the staff secretary through Mr. Haldeman. I am just uncertain at this time.

Mr. NEDZI. For whom was the report prepared?

Mr. HUSTON. It was prepared for the President.

Mr. NEDZI. Could you give us the substance of that report, to the best of your recollection?

Mr. HUSTON. You are asking me something that happened 4 years ago. I think the substance of my conclusion was that there was not much hard evidence to indicate there was any substantial amount of foreign financial support to the revolutionary protest movement in this country.

But that there was far greater evidence than I at least had been led to believe existed of other kinds of influence. It was my feeling that we didn't simply have very complete information about the extent of this activity, and that there appeared to be rather serious gaps in the information we had between that which the CIA had and that which the FBI had.

Mr. NEDZI. When you contacted the CIA, how did you happen to arrange to talk with General Cushman?

Mr. HUSTON. You know, I really don't remember. I think that I asked General Hughes, who was the military aide to the President, to arrange for me to see somebody at the CIA to explain what type of information we wanted. But I just can't be sure.

Mr. NEDZI. Did you ask CIA to do anything?

Mr. HUSTON. Only if they had any information that would help me prepare the report for the President, and would they make available to me whatever information they might have.

Mr. NEDZI. Did they have any information?

Mr. HUSTON. Yes; they did.

Mr. NEDZI. Was it extensive?

Mr. HUSTON. No; not extensive. They had some information as I recall, with respect to activities of Americans in Cuba. Certain contacts with foreign intelligence services abroad. Fairly extensive information with respect to Communist, or conferences held in Europe with respect to the Vietnam war. But I just can't remember in detail what there was or wasn't.

Mr. NEDZI. In what form was this information presented to you?

Mr. HUSTON. I think it was in the form of reports or summaries of analyses——

Mr. NEDZI. Written statements of some sort?

Mr. HUSTON. Written documents.

Mr. NEDZI. Following the preparation of this report, what was your next project involving intelligence?

Mr. HUSTON. Well, intelligence—my next project I guess was in the fall of 1969, when the antiwar marches in Washington in October and November, I was asked to serve as the conduit through whom intelligence reports were coming from the FBI to the White House and prepare summary of those reports for the senior staff members so they wouldn't have to go through a stack of material just to glean out the relevant information and pass it on to them. So I did that in October and November.

Mr. NEDZI. Were you also writing speeches at this time?

Mr. HUSTON. Yes, sir.

Mr. NEDZI. To whom were you presenting these digests of intelligence reports?

Mr. HUSTON. As I recall, they went to Mr. Haldeman, Mr. Ehrlichman, Mr. Krogh, and I think Alex Butterfield; but I think he at that time was responsible for liaison of the Secret Service on Presidential security matters; so I believe he also received those reports.

Mr. NEDZI. Were you also receiving reports from the CIA at this time?

Mr. HUSTON. No. I say no, it is, not to the best of my recollection.

Mr. NEDZI. Then what did you do from October until August of 1970—October 1969 to August of 1970?

Mr. HUSTON. Well, I did messages and stuff, and then particularly in April, after the November demonstration, and also about this time when the level of violence in the country began to pick up, there was an increasing amount of concern at the White House about what we knew and what we didn't know about it, and what we were able to do. Bud Krogh at that time was responsible for the matters relating to the Justice Department, and he had operational responsibility for matters involving, for example, demonstrations and that sort of thing. There were some discussions about this, and expressions to me about dissatisfaction of the quality of intelligence that had been received in October and November.

Mr. NEDZI. Who was complaining about the quality?

Mr. HUSTON. I am getting into hearsay testimony there.

Mr. NEDZI. That is all right.

Mr. HUSTON. I was told, I think, by Bud, Mr. Haldeman, and Mr. Ehrlichman, and indirectly at least they claim the President didn't feel the intelligence that had come into the White House was adequate to afford them the information to make decisions to cope with the demonstrations, and to minimize the risk of violence.

Mr. NEDZI. What kind of information did they think was necessary?

Mr. HUSTON. Well, that, I don't know, sir. I think this was one of the problems. Because I felt that the information that we had received was excellent information in the areas where I thought we had a legitimate requirement for information, which was the contemplated activities of groups that were going to engage in violence. I recall, for

instance, we knew sufficiently well in advance of the plans of the Weatherman to try to storm the South Vietnamese Embassy, that the Washington Police Department was there when they showed up and they were dispersed promptly and with a minimum of violence, and there were no heads being cracked like there had been in Chicago. It was my feeling that this was the kind of information that we needed and that we had gotten it and we had been successful in avoiding an international embarrassment and minimizing the risk of violence. So at this stage, frankly, there was some difference of opinion between myself and other members of the staff about this.

Mr. NEDZI. Which other members?

Mr. HUSTON. Well, particularly Mr. Krogh, to the extent he was reflecting the views of Mr. Haldeman and Mr. Ehrlichman. I recall, for example—I am trying to remember with reference to the materials—but it was either after the October or November demonstration that the Justice Department had, in the course of negotiating the demonstrations they had declined initially to issue a permit. I think it was in the November demonstration.

The Justice Department said the reason they were doing this was they had intelligence there was a high probability of violence. After the demonstration, the violence had been rather localized, the press said there was going to be all this violence and there wasn't any. I recall the Washington press carried a story regarding the Justice Department saying they received faulty intelligence. I remember I either took it up with Bud or sent Ehrlichman a memorandum or something and said I thought this should be shot down because I knew Mr. Hoover wasn't going to be very happy with the people in the Justice Department doing the job in a way they had done, and I drafted a letter for Mr. Ehrlichman's signature to Mr. Hoover telling him what a good job he had done. And then after the November demonstration—

Mr. NEDZI. Was that your judgment at that time?

Mr. HUSTON. Yes, sir, that was my judgment.

And then after the November demonstration you may recall that they had about 5,000 demonstrators over there at the Justice Department that were breaking windows and throwing rocks and everything, and Mr. Mitchell and Mr. Kleindienst were watching from their offices. I think Mr. Mitchell was quoted, or Mrs. Mitchell was quoted, saying it looked like the Russian revolution.

After that demonstration, again I saw a report in the press attributable to Justice Department saying that they were considering indictments under the Antiriot Act of the leadership of the Mobilization Committee which had sponsored the demonstration.

Again based on the information I had seen, there was simply no evidence to indicate these people had been encouraging violence or, in fact my information was that they had tried to avoid it, and certainly had at least disavowed any responsibility for it. So, again, at this point, then, I asked the FBI to prepare an assessment of the whole problem of demonstrations and the prospects for violence, and also to direct their attention to this question whether there was any evidence the new mode leadership had encouraged or participated in violence. The report came in which affirmed my view they had not. So I sent copies of that report to Mr. Haldeman and Mr. Ehrlichman

with a memo directing their attention to the FBI conclusion and suggesting that that conclusion be viewed in light of the statements that were being made at the Justice Department.

Now I never discussed it personally with either of them, and as far as I know, no action was ever taken by the Justice Department to try to write any indictment. I mention this only because I think it is relevant in the context of these discussions to realize that one of the problems that existed was the difficulty for some people to understand the uses and limitations of intelligence information. Sometimes people expect you to be able to do more with it than is possible.

Mr. NEDZI. I take it, then, in April you had some discussions with Mr. Krogh—

Mr. HUSTON. Yes, sir.

Mr. NEDZI. Reflecting the views of Haldeman and Ehrlichman?

Mr. HUSTON. Well, in March—in the spring of 1970, the violence escalated considerably. I recall in March, one period in March, it seems to me it was the first 2 weeks in March, when we had, I think, three or four bombings, four or five attempted bombings, the Bank of America in California was burned down. All across the country the level of violence was escalating. And this was creating concern throughout the Government and in the intelligence community, I believe, and certainly in the White House. And in April Mr. Haldeman, Mr. Ehrlichman, and I am not sure—yes, I think John was there, but I may be wrong whether Ehrlichman was there—I believe he was but I am not sure, Mr. Krogh and I met in Mr. Haldeman's office to discuss this problem and to consider what steps we should take and what internal staff structure of the White House—to evaluate how it was functioning in view of the increasing nature of this problem of escalating violence in the country.

As a result of that meeting, it was concluded that I would henceforth have a responsibility on a continuing day-to-day basis for liaison with the FBI and other intelligence agencies to the extent it involved the questions of domestic violence and disorder, or sabotage, espionage—although on espionage I would coordinate with Mr. Kissinger—Mr. Krogh would continue to have liaison with the Justice Department, and essentially my job would be to coordinate intelligence information, review it, make it available to policymakers, and they would make whatever policy they thought appropriate based on the information that was available.

In essence, my role fundamentally was to be that of a conduit and an analyst to summarize and bring it to their attention. At that meeting we agreed it would be appropriate to have the President meet with directors of the various intelligence agencies to express his own concern about this problem, and to ask them to prepare essentially a threat assessment of how serious the problem was, how much we knew about it, where were the gaps in our intelligence, and if there were gaps what steps would be taken to close those gaps.

So it was agreed by Mr. Haldeman at that point the President would have such a meeting.

It was shortly thereafter that the Cambodian incursion occurred so the thing was held up, and instead of occurring in May as it was scheduled to do, that meeting was not held until the 5th of June.

Mr. NEDZI. During that time you continued to be in contact with the FBI?

Mr. HUSTON. Yes, sir. Because it was in May that we had another one of our big antiwar demonstrations, and again as the result of the Cambodian invasion there was a widespread protest and violence across the country.

Mr. NEDZI. Did you have any structured contacts with the CIA?

Mr. HUSTON. Not that I recall, at that time. I do recall it seems to me at some point, I don't know if it was in May or June, or some point in time, a report came into the White House from the CIA on an analysis of revolutionary youth activities abroad. I received a copy of that, along, I think, Mr. Finch received a copy and Dr. Kissinger. But I don't remember whether that was before or after. But I had no contact with the principals of the CIA until after the June 5 meeting.

Mr. NEDZI. Were there any other agencies with whom you had contact during this period?

Mr. HUSTON. Well, one of the problems—at the same time this was going on I had another assignment from the President that wasn't related to intelligence but was related to foreign policy that involved contact with other agencies, primarily the State Department and the Department of Defense. And in the course of that other project there may have been contacts, but I think any contacts there went through Dr. Kissinger's office or General Hughes' office. I don't recall any contact at all with anyone other than the FBI between the time I prepared the June 1969 report and the time that the June 5, 1970 meeting was held.

Mr. NEDZI. What happened at the June 5 meeting?

Mr. HUSTON. Well, the President expressed his concern to the Directors of various agencies about this problem. He recounted that he had just—

Mr. NEDZI. Who was present?

Mr. HUSTON. Mr. Helms, General Bennett, Admiral Gaylor, Mr. Hoover, Mr. Haldeman, Mr. Ehrlichman, and Mr. Finch, and myself.

Mr. NEDZI. Mr. Krogh was not there?

Mr. HUSTON. No, sir. I recall the President commented he had just met that morning with President Caldera of Venezuela who had expressed his concern about Black Nationalist activities in the Caribbean, and indicated he thought this was a serious problem, that many of the Latin American countries, or governments, including his own, were concerned about it.

The President commented to Mr. Helms that it appeared the United States was reaching a point of exporting revolutionary violence, unlike the Russians, were not doing it as a conscious governmental policy but nevertheless it was being done. He asked Mr. Helms if he knew how serious this problem was in the Caribbean, and Mr. Helms replied that he did not, but that he would have a report prepared for the President so that he could be aware of this point that President Caldera raised. He then discussed the problem of the domestic aspects and the growing escalation and the violence and commented on the fact he asked Congress for new antibombing legislation. And then he commented, I recall he mentioned concern in the media particularly about repression, and he indicated he wanted everyone to understand this

administration was not going to engage in any activities that would constitute repression, but that we had escalating level of violence and innocent people were being killed and that the Government had a responsibility to do everything within its power to try to come to grips with this, and he wanted the Directors to prepare a report that would essentially give him an assessment of the threat, give him an analysis of the gaps that existed in our intelligence-collecting effort, and to give him a full range of options as to what steps he might take to deal with the gaps to insure that the Government was doing everything it possibly could to minimize the risks of loss of life arising out of the domestic violence.

Mr. NEDZI. Was there any specific assignment to the Director and to yourself at this meeting?

Mr. HUSTON. Well, they were asked to prepare a report, and they were told that I would be the contact person at the White House with whom they would work, and the President indicated he understood each of these people would have a working group that would actually prepare the report. I recall he suggested to Mr. Hoover that Mr. Sullivan be chairman of that working group.

Mr. NEDZI. Was Mr. Hoover to be the—

Mr. HUSTON. He was to be chairman of the committee.

Mr. NEDZI. Chairman of the committee?

Mr. HUSTON. Yes, sir.

Mr. NEDZI. Did you have anybody working for you at this time?

Mr. HUSTON. No, sir.

Mr. NEDZI. Did you have any secretarial help of any kind?

Mr. HUSTON. Oh, I had a secretary, yes.

Mr. NEDZI. No staff beyond that?

Mr. HUSTON. No. In fact I didn't even have a secretary. I shared a secretary with Mr. Buchanan.

Mr. SLATINSHEK. Mr. Chairman, may I interrupt?

Mr. NEDZI. Yes.

Mr. SLATINSHEK. At this particular meeting was the Attorney General present?

Mr. HUSTON. No, sir.

Mr. SLATINSHEK. I am curious as to why he would not be present since this essentially was a law enforcement problem.

Mr. HUSTON. Well, in retrospect, I probably would agree with you, but frankly at the time, in the context in which we were evaluating this problem, it wasn't regarded as a law enforcement problem, at least from my perspective. In other words, there was no doubt in my mind the Government was doing everything it possibly could to apprehend—I wouldn't say that, but I had sufficient assurance the Government was doing what it could once the bombing occurred to try to find out who did it and see they were arrested. But the concern, my concern, I can only speak for myself, although I had reason to believe it was more widely shared by others, it was more important to stop the violence before it occurred than it was to give prosecution to the people after it was over who were responsible for the violence.

So essentially that was an intelligence problem, and not a law enforcement problem. So that frankly in that context it certainly never occurred to me for the Attorney General to be there, and I must confess, as indicated from my earlier testimony, I maybe had a little less

confidence in the Justice Department assessment of the problem than maybe I should have had as a result of the difference of opinion that we had over the responsibility for the violence in November.

Mr. SLATINSHEK. When did the Attorney General get into the picture personally?

Mr. HUSTON. Well, to the best of my knowledge, I have no direct knowledge, I only have what I was told, but I was told that, as I recall, it was not more—either the same day or next day after the memorandum that I sent to the Directors reached Mr. Hoover's desk that I got a call from Bill Sullivan at the FBI telling me that the Director had gone through the roof, and he was going or had gone to the Attorney General to protest the decisions that had been made, and to get them reversed.

It was shortly thereafter, and I can't say with any certainty whether it was the next day or 2 days, but within a very short period of time I received a call from Mr. Haldeman who told me—again this was a critical point I can't be sure about—he either told me he had talked to the Attorney General or the Attorney General had talked to the President. I believe he told me the Attorney General had talked to the President. In any event, the memorandum was to be recalled. At that point it was obvious to me the Attorney General was into the picture on this thing.

Mr. SLATINSHEK. That is all I have.

Mr. NEDZI. At this June 5 meeting, Mr. Huston, what was your judgment of the quality of intelligence? Earlier you stated that you didn't see a real problem, you thought it was very good.

Mr. HUSTON. Well, I didn't see a real problem with respect to the intelligence of those groups who were planning to engage in violence in Washington on a particular day. I thought our intelligence on that was rather good. I remember there was some criticism of the fact the intelligence community had vastly underestimated the number of people who were going to participate. There was no way you could account for the people who would walk in or come in their own cars, so I didn't see where that was significant. My concern was there was such extensive foreign travel. There was constant group meetings being held abroad between the more militant members in the war group and the senior NLF and North Vietnamese leadership. There were groups of people going to Cuba. There was such extensive activity abroad of people whom we knew to be involved or suspected to be involved in activities in this country that we had so little information on. Once they left the country, our source of information was very meager, minimal; we just didn't know very much about it. Our information about the Weatherman faction of the SDS and the bombings, the smaller groups, was not very good. We didn't know very much about who was doing what, why they were doing it, how systematic it was, how much of it we could expect. The need there was specifically to coordinate activities and the acts of violence at home, that I felt that our intelligence information was not very good.

Mr. NEDZI. Did you have any specific recommendations for improving it?

Mr. HUSTON. My recommendation was that this committee prepare a report, that they look into it. In other words, I had written one report, so that I didn't think that there was anything to be gained

from me writing another report. I thought what we needed to do was get the people who were paid to understand this problem, and that worked and knew this problem, to deal directly with the President and let them. So I tried in the meetings of the working group, generally speaking, to keep my participation and my views to a minimum so that these people would say what they thought the problem was, and they would give the President the range of options that they thought existed.

Mr. NEDZI. How soon after the June 5 meeting did the group meet?

Mr. HUSTON. Well, it was relatively soon. I think it was on a Friday. And I think that we met in Mr. Hoover's office, like on the following Monday or Tuesday, or early the next week, it seems to me.

Mr. NEDZI. Who was present?

Mr. HUSTON. Mr. Helms, General Bennett, Admiral Gayler, myself, Mr. Sullivan, and I think—Mr. Hoover, of course, was there as chairman—I think there were a couple other FBI staff members.

Mr. NEDZI. But all the Directors of the various intelligence agencies were present?

Mr. HUSTON. Yes, sir.

Mr. NEDZI. How frequently did you meet?

Mr. HUSTON. Well, the only other time the principals met was at the end of June when the report had been completed. They met again in Mr. Hoover's office simply for the purpose of signing the report and arranging for its transmittal to the President.

Mr. NEDZI. What about the working group? How frequently did they meet?

Mr. HUSTON. Well, I don't recall exactly.

Mr. NEDZI. Did you meet with them on each occasion?

Mr. HUSTON. Yes, I met with them on each occasion. We met at the CIA. And it seems to me that we probably met maybe three or four times, I don't remember exactly. I remember there was an organizational meeting at which it was decided how the report would be structured and how the various agencies would make their input. Then, as I recall, each agency prepared its draft part of the report. And I think those went directly to the FBI who was Mr. Sullivan as chairman, and the FBI staff was the secretariat, and as I recall, they took the input from the various agencies and drafted a draft report. Then we had at least one meeting, maybe two meetings, after that when we were working on the actual draft report. But I just don't know the number of times—maybe three, four, or five. I know the whole thing was wrapped up before the end of June.

Mr. NEDZI. Who were the most active participants in this report, which agencies?

Mr. HUSTON. Well, the FBI, because we had made it clear, and the President made it clear, that nothing we were trying to do would in any way change the responsibility for internal security of domestic intelligence. It was the FBI's responsibility. So the FBI was obviously the most active and the most interested. The military services were represented on the working group, counterintelligence agencies of the three services, because one of the things we wanted was also an assessment of the problems within the military services; they were participating at the working level. But obviously, the FBI was the most active and interested because they had the primary responsibility.

Mr. NEDZI. When did you serve in the Army, Mr. Huston?

Mr. HUSTON. From 1967 to 1969—February of 1967 to January of 1969.

Mr. NEDZI. What was your assignment?

Mr. HUSTON. I was at the Defense Intelligence Agency.

Mr. NEDZI. What kind of duties did you have?

Mr. HUSTON. I was assigned essentially as an officer in charge of making available to the Joint Chiefs and the various Assistant Secretaries materials, intelligence information, derived from clandestine satellites, that sort of thing.

Mr. NEDZI. It was all technical—intelligence derived from technical sources?

Mr. HUSTON. Yes.

Mr. NEDZI. Not human sources?

Mr. HUSTON. That is right, sir.

Mr. NEDZI. At that time you had a top-secret clearance?

Mr. HUSTON. Well, I had a number of clearances in addition to top secret, yes.

Mr. NEDZI. During the final meeting when all the principals assembled for the purpose of reviewing the final draft, what was the discussion which took place?

Mr. HUSTON. Well, as I recall, I remember Mr. Helms and I arrived at the Justice Department about the same time, so we walked up together to Mr. Hoover's office. Just before we were going to go into Mr. Hoover's office, Bill Sullivan pulled us aside and told us that morning the Director, Mr. Hoover, had decided to change some of the language in the report, and that he had not bothered to clear it with any of the other four men who were coming for the purpose of signing the report. So Mr. Sullivan showed us the changes that had been made, and Mr. Helms and I agreed that the changes weren't substantive enough to justify raising the question with Mr. Hoover. I remember General Bennett and Admiral Gayler concurred. Prior to the meeting, I received calls from both General Bennett and Admiral Gayler complaining about the fact Mr. Hoover had footnoted his objections. Both of them wanted to raise this question with Mr. Hoover at the meeting, and indicated they frankly didn't want to sign the report without putting in their objections to these footnotes.

My concern from the very beginning, very early in the game, was to try to keep Mr. Hoover from being unnecessarily riled by all this. I asked General Bennett and Admiral Gayler not to raise this point at the meeting, that I understood their position, and that I would see that the President was informed of it.

We went into the meeting—I forget how it happened—but inevitably either General Bennett or Admiral Gayler raised some question about this. Fortunately Mr. Helms kind of intervened and we glossed over it, went ahead and signed the report and went back.

That is really what I recall essentially what it was.

Mr. NEDZI. What was their objection?

Mr. HUSTON. Well, I think their point was that first of all the report itself did not make any recommendations—it merely expressed reported options, listed options. And that second, it was a report from the four agencies, and not from Mr. Hoover.

I think that was it. I think with Admiral Gayler there was a more fundamental difference, because he had talked to me about this question of surreptitious entry with respect to acquisition of information that would be useful to the NSA and apparently he had discussed with Mr. Hoover, and not gotten a satisfactory response, and I think that he was concerned substantively to the specific objection Mr. Hoover made with regard to that matter.

Mr. NEDZI. Can you help the subcommittee on this problem of surreptitious entry, for the purpose of securing cryptological data, I guess?

Should that kind of information be obtained? Doesn't the other side normally change their codes as soon as something like that is discovered?

Mr. HUSTON. If it is discovered. That is the difference between surreptitious entry or breaking and entering. For intelligence purposes you enter with the express intention of making an undetected entry, so that it is not known to the other side that you in fact have that information. You are asking me to comment on something that I simply don't know a great deal about. I didn't feel it was frankly my responsibility, although I had the necessary clearances to get into the mechanics of how NSA carried on its business. It was a very sensitive matter. I was trained to operate on a need-to-know basis, and I felt frankly that was beyond my reach. But I do know that Admiral Gayler, who discussed it with me—I think [deleted] had discussed it with me, and I don't recall the name of the individual who was their representative on the working group—but I know it was discussed there. These people felt very strongly, and I do recall Admiral Gayler had indicated to me his predecessor Director at the NSA had raised the question with Mr. Hoover, and had gotten no satisfaction. And my feeling, frankly, was that this was only peripherally related to the subject directly before our committee. It was more directly a foreign intelligence question, although there were obviously some other uses to which it could—that kind of information could be used. For one thing, we didn't know the extent the foreign governments were participating, particularly Cuba, in the operations in this country, in these groups. My feeling was this was a decision that should necessarily be brought to the attention of the President. There was no objection raised to it as a working group. That is really how it go into this report.

But I might add that really the only serious discussion I ever recall at the working group—and again I have no notes or minutes or anything of those meetings, so I don't claim to have exhaustive knowledge about it—but it is my recollection that the principal discussion with regard to surreptitious entry was fundamentally that related to the request of NSA. As I recall, Mr. Hoover's objection was not that there was anything wrong—except the fact he didn't want to do it, it was too risky—but if NSA wanted to do it, that was fine with him. Of course, they didn't have the people to do it, that wasn't their mission to do that sort of thing, and so that is kind of where the issue was joined.

Mr. NEDZI. Was there any suggestion on Admiral Gayler's part that NSA actually do this themselves?

Mr. HUSTON. He was very strong against that. I was strong against

it. My position was that NSA's charter was to deal with communications intelligence, and to the extent they needed assistance in that respect, fell beyond the scope of their operational method, or charter and the Agency who could do that should do it, and that was the FBI. I think that was the fundamental dispute.

Mr. NEDZI. What was Mr. Helms' position on all of this?

Mr. HUSTON. I don't recall Mr. Helms ever expressed an opinion on it one way or the other.

Mr. NEDZI. He never objected to the inclusion of the FBI footnotes?

Mr. HUSTON. No; he never expressed an opinion one way or the other to me.

Mr. NEDZI. Who kept the notes or minutes of these meetings?

Mr. HUSTON. Well, I think there were notes or minutes, but I don't recall. They would have been kept by the FBI. In other words, the FBI staff was the secretariat of the meeting.

Mr. NEDZI. Did you make any reports as a result of the working group meetings?

Mr. HUSTON. No; I think I told Haldeman we were moving along. But, no; I never made any reports. The only person that really, at this stage, that I knew much about, was Haldeman. I was reporting to him, and the only thing he was interested in was the final report.

Mr. NEDZI. On July 23 you had sent a memo to Mr. Helms?

Mr. HUSTON. Yes, sir, an identical memorandum went to each of the four Directors.

Mr. NEDZI. They were separately addressed?

Mr. HUSTON. They were separately addressed, but the content of the memorandum was identical. In other words, since each of the Directors had signed the report, they had copies of the report and there was a list of options available. It was my view each Director should know what the President decided on each option even though a particular option may not have been within the scope of their own responsibility. For example, the only two options that affected NSA, as I recall, was the interpretation of surreptitious entry. They had no interest in campus undercover agents or things like that. The CIA, as I recall, the conclusion they were interested in was increasing coverage of U.S. nationals abroad.

So that the military, the DIA, was quite interested in the fact that the President said we were not going to allow military undercover agents. The decisions directly affected the FBI, the bulk of them, and that's who was affected.

Mr. NEDZI. The question of electronic surveillances and penetration groups posing a major threat to internal security?

Mr. HUSTON. That was an FBI report.

Mr. NEDZI. That was directed to the FBI?

Mr. HUSTON. Yes.

Mr. NEDZI. What was the standard that was used? How did you define where a group or individual poses a major threat to the internal security?

Mr. HUSTON. Well, I think it was defined by inference to reference to the particular groups that were under serious investigation—which, in my mind, as I recall from my own memorandums—we were principally talking about the Black Panthers, and Weatherman, both groups being engaged in overt acts of violence. But my only view was one of

the first responsibilities of the committee that we had recommended in the report that was approved essentially for domestic intelligence operations board would be to have defined these areas and made these decisions. One of the things that I thought would benefit from this was the necessary clarification at the professional level of this definition, whereas traditionally it was my knowledge, based upon information I had about what had occurred in the Government prior to our administration, that essentially those decisions were largely made by the political leadership as opposed to the professional leadership.

Mr. NEDZI. Were you dissatisfied with the report?

Mr. HUSTON. Was I dissatisfied with—

Mr. NEDZI. The report of the interagency committee?

Mr. HUSTON. No, sir, as I recall—I haven't seen that report in 3 years—I don't remember substantively what is in it, but I do recall that I certainly was satisfied with the report. I thought the committee had done a first-rate job.

Mr. NEDZI. I am trying to understand how you think the matter of defining individuals and groups should be handled or should have been handled.

Mr. HUSTON. Well, I think principally it had to be defined by the respective agencies.

Mr. NEDZI. Were you expecting a follow-on meeting?

Mr. HUSTON. Yes. As I recall, in my memorandums I indicated we would convene to set up this group, and one of their assignments was to essentially follow up. This was simply a beginning. The report, as I recall the threat assignment, was very general. And one of the things that we wanted I recall specifically, I felt what this group should do was a lot like USIB did in terms of doing threat assessment on a continuing and reviewing and updating basis on the information you had so we knew more precisely what it was we were talking about.

But it was not possible for me, based upon the report that had come to me from this working group, to specifically identify those targets as to who would fall within this category. I must confess, frankly, my own view was that was a decision that would be made principally by Mr. Hoover, and, to the extent that other agencies were interested, by their directors. I must confess it never really occurred to me any of these people would abuse that kind of discretion.

My confidence in their integrity essentially was that—maybe I should have worried more about this than I did—but my impression from talking to Mr. Sullivan and people of the FBI and in my dealings with Mr. Helms was that these were men of integrity, and when you said to them “a major threat to the national security,” that didn't mean some guy who was just out on the street protesting against the war or causing political embarrassment to the President generally doing anything, but meant people who were either engaged in sabotage, espionage, or overt acts of violence.

Mr. NEDZI. Do you continue to have that kind of faith in the integrity of these agencies?

Mr. HUSTON. I have seen nothing to make me believe my judgment of the integrity of the individuals is wrong in the intelligence community. But I must say what has happened since I left the White House has made me question my whole premise that the decisions of

this sort can in any event be afforded to be based on the appraisal of the integrity of the individuals. I still continue to believe that Mr. Helms is an honorable man, and Mr. Hoover is an honorable man, and that these Directors were honorable men.

But things have happened, then, which, frankly, people I thought were honorable that I worked for, they should question—rather you can afford to make decisions on the estimate of a man's integrity.

Mr. NEDZI. When this memorandum was sent to the various agencies was it sent on your own initiative, or were you directed to send it to them?

Mr. HUSTON. No, sir. After I received a memorandum from Mr. Haldeman indicating that the President had approved my recommendations—again I should point out I don't know the President approved it, all I know is Mr. Haldeman in the memorandum said the President approved it—I then prepared that memorandum and sent it to Mr. Haldeman for his approval, because I certainly was not—was not authorized to, and, secondly, I was sufficiently junior on the staff I wasn't about to send something like that to Mr. Helms when all Mr. Helms had to do was pick up the telephone and call the President and say, hey, wait a minute, did you authorize this?" I sent to Mr. Haldeman the exact memorandum, and asked him if this was—I told him I thought this reflected accurately the decisions that had been made, and with his approval I would arrange for it to go out to the four Directors. I received his approval. I can't find any memorandums of that, but I don't know, I must have done it on the phone or somewhere, but I just know that I sent the thing to him for his approval, and that I sure as heck wouldn't have taken it upon myself to send it to Helms without him having approved it. I invoked the President's name, and the critical nature of the thing justified, in my judgment, the President see it, but I don't know whether he ever did or not.

Mr. NEDZI. Was the Attorney General notified at all of this report?

Mr. HUSTON. No, sir. As I indicated, the first time that I know that the Attorney General became involved was when Mr. Hoover went to him after he received this memorandum.

Mr. MELVIN PRICE. I want to ask, when did Mr. Hoover go to the Attorney General?

Mr. HUSTON. Well, I understand he went to the Attorney General as soon as he received it.

Mr. MELVIN PRICE. When was that?

Mr. HUSTON. Well, it would have been, I think, on July 23 or July 24, some time in that period.

Mr. MELVIN PRICE. The letter, there is a note from Mr. Helms indicating he met with the Attorney General on July 27, and that at that time the Attorney General said only on that very morning he first heard of the meeting, and so forth—heard anything about the meetings.

Mr. HUSTON. Well, as I say, I don't have—I have no way of knowing when he met or knew about it. All I knew is what I was told that Mr. Sullivan had told me that Mr. Hoover had intended to go to the Attorney General and that subsequent to that Mr. Haldeman called me and told me that the Attorney General had talked to him or the President or somebody and the decision memorandum was that he

would call. I never discussed it personally with the Attorney General. I was never in any meeting with the Attorney General.

Mr. NEDZI. Would you state again what you just said about the decision memorandum being recalled?

Mr. HUSTON. Well, at the time—when Mr. Haldeman called me and told me about the Attorney General, Mr. Hoover having conferred with the Attorney General and the Attorney General having intervened on the question—

Mr. NEDZI. When did he tell you this?

Mr. HUSTON. Mr. Chairman, I don't know. You are asking me about something that happened 3 years ago. It was written a very short period of time after the decision memorandum went out. I can't say it was 2 days, 4 days, or 5 days.

Mr. NEDZI. It wasn't 2 weeks?

Mr. HUSTON. No; it was not. It wasn't 2 weeks.

Mr. NEDZI. We want the benefit of your recollection.

Mr. HUSTON. I think the easiest way to ascertain that is I am sure the agencies know when they sent the memorandum back to us. It obviously occurred prior to that time. Because I then went—I am not sure about this, I don't think I sent a memorandum asking that it be returned. I think I asked Mr. McManus in the situation room to call the various agencies and ask them to send the memorandum back. Because I do remember when I received the memorandum back.

Mr. NEDZI. If I can help you. There is a memorandum from Mr. Helms in the record dated July 28 for Mr. McManus, in which he states that he is returning Mr. Huston's memorandum.

Mr. HUSTON. Well, I thought that was what had happened, but I couldn't find anybody that would confirm that. Mr. McManus said he didn't remember.

So, in any event, all this happened between the time this memorandum went out on July 23 or 24—it is dated the 23d, I don't know when they received it—the agencies know when they received it—and when I had it recalled. The Attorney General got in the act as a result of Mr. Hoover's action. The memorandum was recalled. I remember it when it came back, I think three of the four of them had staples removed which indicated they, of course, kept copies. What we were interested in doing was getting the whole thing back and having it stopped.

Mr. NEDZI. Who made that decision?

Mr. HUSTON. I was instructed to bring that back, to call the memorandum back, by Mr. Haldeman.

Mr. NEDZI. Did Haldeman indicate whether this was the President's decision?

Mr. HUSTON. Like I said, I don't remember. He had told me, as I recall, the Attorney General had talked to him or the President, that he wanted the decision memorandum back, and that the Attorney General was going to meet with the President or with him and with Mr. Hoover to discuss the matter. So that I had the impression at that time that the decision memoranda were to be recalled. In essence, we were going back to where we were before the President had made his decision, and the matter was being reopened for further discussion between Mr. Haldeman, Mr. Mitchell, Mr. Hoover, and the President.

So that is where the matter stood on the date, whatever it was, July 28, or whenever it was, that I asked the memorandums to come back.

Mr. NEDZI. Why was it handled in that way and not through another memorandum simply rescinding the effect of the order?

Mr. HUSTON. I wondered about that, too. I think the answer to that was this was such a highly sensitive matter we didn't want any more papers floating around the agencies than were already there. I think that is the reason why we asked to have that memorandum come back.

Of course it was suggested at the time you could reasonably expect to get that document back without copies remaining to start with—but I think that was the motive.

Mr. NEDZI. Whose judgment was that it be handled in that fashion?

Mr. HUSTON. I don't remember, Mr. Chairman. I just don't know the answer to that. I don't recall any discussion coming up as to any new memorandum saying, "Forget the old one." All I recall was the decision, get the thing back. Of course there was certainly no doubt in my mind that once we told Admiral Gayler to send the memorandum back there was going to be no doubt in his mind any hope he had for dealing with this problem was at an end until something further came along.

Mr. NEDZI. Was there any discussion as to why the memorandum should be recalled?

Mr. HUSTON. Well, I think it was to be recalled because Mr. Halde-man or the President decided they didn't want the decision to stand after the Attorney General had intervened.

Mr. NEDZI. Was it your understanding that the reason for the President's move was that Mr. Hoover had prevailed upon the Attorney General?

Mr. HUSTON. That was my impression; yes.

Mr. SLATINSHEK. Mr. Chairman.

Mr. NEDZI. Go ahead.

Mr. SLATINSHEK. How many copies of that memorandum were produced initially and distributed by the White House, just the copy to the agency section?

Mr. HUSTON. Yes.

Mr. SLATINSHEK. And one for your own files, presumably?

Mr. HUSTON. Yes.

Mr. SLATINSHEK. They were all returned?

Mr. HUSTON. Yes, sir, I am sure they were.

Mr. SLATINSHEK. What happened to them physically afterwards?

Mr. HUSTON. I assume they are still at the White House.

Mr. SLATINSHEK. Were they returned to you?

Mr. HUSTON. They were returned to the situation room and then came back to me; yes.

Mr. SLATINSHEK. You had them?

Mr. HUSTON. I had them in my physical possession; yes. That is the reason I knew the safe had been removed.

Mr. SLATINSHEK. Did Mr. Dean have access to these?

Mr. HUSTON. I am uncertain about that. I think that I had all that material in my file. Of course I was responsible for this. It was after this decision to recall the memorandum that—it was about that time that John came, John Dean arrived, and then shortly thereafter it

was made clear to be by Mr. Haldeman that henceforth John would be handling these matters, including this report. And he had a copy of the report.

So it is my best recollection.

Mr. SLATINSHEK. Did you turn over your file?

Mr. HUSTON. No; as I recall I did not, until I left in June of 1971.

When I left the White House, then I turned over everything that I had to John, and from there he turned it over to the Judge.

Mr. SLATINSHEK. That is all I have, Mr. Chairman.

Mr. NEDZI. To get clear in my own mind. Mr. Huston, at the time this report was prepared you had forwarded the report and a memorandum to Mr. Haldeman?

Mr. HUSTON. Yes, sir.

Mr. NEDZI. That memorandum was reproduced in the New York Times, as I understand.

Mr. HUSTON. Yes.

Mr. NEDZI. In it you state at one point, referring to Mr. Hoover, that his objections are generally inconsistent and frivolous.

Would you explain that?

Mr. HUSTON. Well, sir, at no point in our discussions did anyone raise what I would have considered a principal objection. In other words, when Mr. Hoover said "I don't care"—"I don't want the FBI to engage in surreptitious entry of foreign embassies, but if the CIA wants to do it, that is fine," well, that simply was not a principal objection. For example, to you or perhaps Senator Ervin, if you had been in that position you would have said "I don't think anybody has any business breaking into foreign embassies, period." I consider that a principal objection, and one that forces you against the wall to answer it directly.

And, it seemed to me that—and I think—I don't want to speak for others—but other people certainly indicated to me a similar belief, that Mr. Hoover's objections were based principally upon (a) his concern about the possible embarrassment to the Bureau if any sort of covert operation were exposed; second, his concern that other agencies might in any way be in a position to review or evaluate or participate in areas that were directly under his operation and control.

I tried, I thought as faithfully as I could, in my memorandum to explicitly reflect the consensus of the group, and when Mr. Hoover objected I said Mr. Hoover objected. When CIA objected, I said CIA objected. When Admiral Gayler said something, or General Bennett, that is what I said.

But I felt that Mr. Hoover's objections were not consistent with the kind of concern that I thought would have justified a more serious evaluation.

Mr. NEDZI. I don't want to quibble, but the use of the word frivolous seems to me not appropriate here.

Mr. HUSTON. I think that may be an inappropriate word, Mr. Chairman. I am the first to admit that I may not in every piece of paper I have written in my life have chosen the most precise or most accurate words.

Mr. NEDZI. Mr. Price.

Mr. MELVIN PRICE. Did Mr. Hoover's remark of that nature come

out of the clear blue, or during the discussion of the possibility there would be some surreptitious entry of foreign embassies?

Mr. HUSTON. I am sorry, sir—well, my understanding was this question had been raised with Mr. Hoover by Admiral Gayler's predecessor and by Admiral Gayler. I presume that must have occurred through USIB or some other contact. But he had argued his objection was NSA ought to do it, and of course NSA didn't want to do it and didn't have any right to do it and didn't have any people to do it.

Other people in the intelligence—Domestic Intelligence Division indicated the Bureau could do it, and could do it successfully.

Mr. MELVIN PRICE. But there was discussion of this paper going on at the time of the report?

Mr. HUSTON. There undoubtedly had been discussions going on long before I had gotten into the picture on this thing. I had no knowledge of this sort of thing at all before this report came up, and when this thing came up in the context of these discussions, it was obvious to me that this was essentially a longstanding dispute that had apparently gone on for some time between NSA and the FBI.

I presumed quite obviously that if NSA had felt they could do this thing on their own they never would have bothered to raise the question of presenting the issue to Mr. Hoover, because Admiral Gayler certainly realized the problem of trying to push Mr. Hoover into doing something he didn't want to do.

Mr. NEDZI. In your memorandum you also stated that those individuals within the FBI who have day-to-day responsibilities for domestic intelligence operations privately disagreed with Mr. Hoover.

Mr. HUSTON. Yes.

Mr. NEDZI. What kind of evidence do you have of that?

Mr. HUSTON. Sir, I had been working with these people on and off for nearly—by that time nearly a year. I had a number of discussions with these people. I sat through group meetings, the meetings of the subcommittee, and heard the discussion. And it was quite obvious to me those people simply disagreed. Because, for example, the report of the committee, after the final draft had been approved by the working group, it then went back to each of the principals for approval to get their reactions and comments to see if any changes had to be made. The FBI people didn't give that report to Mr. Hoover at that time, at the same time, for example, Mr. Helms and General Bennett and Admiral Gayler saw it, because the FBI people felt at that point that Mr. Hoover would just categorically reject anything that was being considered, and the only prospect of getting him to go along at all was to tell him the report had already been approved by the other three principals.

So I felt that I had good justification for drawing that conclusion with respect to at least the senior people in the Domestic Intelligence Division that I worked with, what their conclusions were, because they had articulated those conclusions very clearly at the working group meetings.

Mr. NEDZI. How do you account for the disparity in the judgment in this regard between Mr. Hoover and others in the FBI?

Mr. HUSTON. Well, I got into trouble over on the other side in answering that question.

Mr. NEDZI. Well, do it again. [Laughter.]

Mr. HUSTON. It was my personal belief—

Mr. NEDZI. This will be double jeopardy.

Mr. HUSTON [continuing]. That Mr. Hoover never really understood the nature of the new kind of revolutionary protest movement in this country. In other words, the differences between the old Communist Party and the Weatherman and the Black Panthers were so enormous, and the methods of coping with them. In the old CP, once you penetrated the Communist hierarchy, you knew everything that was going on. All reports came from the top to the bottom and all reports went from the bottom to the top. When you penetrated the top you knew everything that was going on. This wasn't true of the other revolutionary groups. I recall an instance when Mr. Sullivan gave a speech in which he made a statement that the Communists weren't really in control of the antiwar movement and the revolutionary protest movement. Mr. Hoover just was very upset with him and as a result I remember Mr. Sullivan had to cancel other speaking engagements.

I didn't want to get caught in the middle of this thing, but my only interest was my job was to try to give the President what I thought were the consensus of people who had operational responsibility for this area. There was no doubt in my mind at the working group level I accurately reflected in my memorandum that consensus. And I regret that I felt it necessary to imply that Mr. Hoover's objection's weren't worthy of more serious attention, but I think I would have done so, as I say, if at any point in time he would have said not that this is going to embarrass me, or not that I don't care if anyone else does it, but this just isn't the right thing to do, then I likely think definitely at that point I would have rallied after that reality and said "Let's look at that."

Mr. NEDZI. Was there a difference of opinion within the FBI as you observed it on the question of surreptitious entry into the embassies, for example?

Mr. HUSTON. I think there was. I think my impression was, and I think other people involved at the working group level would agree, the FBI felt that was something they could do. I don't think that they felt it was something they were anxious to do because there was nothing that would be of particular benefit to them in their work, but I think they felt if this was something important to NSA and it was a job that they could do and NSA had neither the capability nor the authority to do it, that the FBI would under—or should under those circumstances do it.

Mr. NEDZI. How does this relate to domestic intelligence?

Mr. HUSTON. Well, as I indicated to you earlier, Mr. Chairman, in my judgment it really didn't relate to domestic intelligence. It was fundamentally a foreign intelligence matter, except to the extent if you had a capability, for example breaking the [deleted] diplomatic code, it could provide us with the information we certainly lacked at that time as to the extent to which they were funding through their mission in the United Nations mission some of the radical groups. Fundamentally very early in the proceeding the NSA people came to me, and I was smart enough to recognize they saw an opportunity to give what they regarded as an important issue that had been blocked

at the level which they had then been functioning, moved up to the Presidential level. And I agreed to allow them to do that. Maybe I should not have. But it seemed to me the forum was really no different than USIB in terms of the principals involved, who the principals were, therefore it was a legitimate question that should go to the President. So really that is how the thing got in at this level.

Mr. NEDZI. You raise a point that is interesting, because that thought is troubling me, why did we need another Interagency Intelligence Committee when we did have USIB where all these agencies are represented? Why couldn't they have been charged with this?

Mr. HUSTON. Well, I think the problem with that was that, first of all, USIB was under the chairmanship of the Director of Central Intelligence. I think legally you could say the Director of Central Intelligence under his statutory responsibility as Director of Central Intelligence as opposed to the Director of the Agency could perhaps undertake that assignment, but as a practical matter there was—Mr. Helms and Mr. Hoover weren't hardly speaking to each other to start with. And to talk about trying to do that would have been impossible, No. 1.

And, secondly, it was my judgment that the staff of USIB of course was primarily CIA, and it was coordinated to CIA, and the staff of this group should be primarily FBI, and should have been staffed at the FBI. My view of this thing was the other agencies were really ancillary and only in a support role in matters that involved when someone crossed the border to help keep track of him there. That wouldn't justify, in my view, the attention of USIB. I had originally suggested to the President, I might say, that he ask Mr. Hoover to have this study conducted by a subcommittee of USIB, which he would appoint as chairman of USIB, but as a matter of fact that was the recommendation I put in the talking paper that I sent to the President. The President called me that morning before the meeting and told me he did not want to do that, but he wanted directly to appoint Mr. Hoover chairman, and operated without reference to USIB.

Mr. NEDZI. Well, it seems to me that the other agencies were involved to such a minor degree that the real emphasis on this problem should have been within the FBI, doesn't it so seem to you?

Mr. HUSTON. Well, yes. But you know, I am the first to admit I was perhaps not to say the most subtle and diplomatic person who tried to deal within the bureaucracy of the White House, but I did recognize that with Mr. Hoover it was very, very difficult to prevail upon him to make any changes in operation or reevaluate any decisions he had made. And that we had to go to very great lengths to even try to do that. For example, there was one of the options that is in my recommendation paper that says something about all restrictions on campus informants are lifted. The only restriction there was was Mr. Hoover's decision you had to be 21 years old before a local field office could ask you to be an informant for the FBI. But it was our decision that we wouldn't dare put in a report that Mr. Hoover's restriction on 21-year-olds has to be lifted because Mr. Hoover would have regarded that as a total affront. So some of these things had to be stated overbroadly, primarily, in what turned out to be a less-than-successful effort to try to ease Mr. Hoover into the position where he thought he could acquiesce in some of these things.

Mr. NEDZI. Would it be fair to say the other agencies were involved to finesse Mr. Hoover?

Mr. HUSTON. No, sir, I wouldn't say that is the initial reason they were involved. Because, as I say, the coverage that we had outside the country was not very extensive.

Mr. NEDZI. But that is one item which was obvious and could have been handled through a call to Mr. Helms by the White House or the Security Council?

Mr. HUSTON. It was our feeling at that point it was not only a matter of what wasn't available, the fact they should increase their information, but what kinds of information we ought to get. I think what has happened here in context is when we started this thing, there was a lot more anticipation or emphasis upon the threat assessment part of the report than had subsequently been given by you and the other committees. In other words, you concentrated on the operational end of the report, which is justifiable, but I am saying that I think that we, when we first set up the report, one of the things we did want to have was the threat assessment part of it working. And also the portion to identify where the gaps in our intelligence were, and what agencies it was, and which agencies could fill those gaps.

So that is essentially where we ended up.

Mr. NEDZI. What do you know about the differences between Mr. Helms and Mr. Hoover?

Mr. HUSTON. Well, I think I knew at the time—as I recall, after I left the White House, there was an article in the New York Times in October of 1971 in the Sunday edition about a dispute between Mr. Hoover and the CIA after he had cut off liaison. But I have been told that the reason that Mr. Hoover had cut off liaison was that the FBI agent in Denver had passed some information along to a CIA person in Denver and that Mr. Hoover had found out about it, and asked the identity of that FBI agent, and Mr. Helms refused to give it to him. This had occurred, as I recall, in May, and I was more than frankly a little upset at the meeting with the President when the President explicitly asked each of the Directors, or asked Mr. Helms and Mr. Hoover whether there was good, close coordination within the intelligence community. They said there was. I sat there and knew, of course, prior to that meeting that Mr. Hoover had cut off liaison with the FBI—personal liaison. At least they could send things through the mail.

Mr. NEDZI. Didn't the President indicate knowledge of this?

Mr. HUSTON. I think I told the President in a talking paper in advance that this liaison had been terminated, but in the course of the meeting they reassured the President there was effective, close coordination.

So in the course of the June meeting—I remember one day when the working group was meeting at CIA, I went out and—the only time I think I ever met Mr. Helms in his office at CIA—I made an appointment to go in to see him before the working group started. I said to Mr. Helms, "I think this is a serious problem, that we are insisting in this report talking about ways in which we can improve ways of the community to collect and analyze intelligence information, and that there is no effective coordination between your Agency and the FBI." And I said, "I wondered, frankly, would you be willing to go down

and see Mr. Hoover and apologize or something, or do whatever has to be done to try to get this thing back on target." And he paused a minute and told me, "Well, I don't think it is really that important. We are getting along all right." I understood—it may have been presumptuous of me to ask to do that—but I was just genuinely concerned about it, and I thought maybe if Dick said something to Mr. Hoover about it, they could get that thing turned on again. But he didn't express any interest to do that, and I understood it, and I didn't push him on it. I said, "I understand," and that was the end of it.

But then in July, Mr. Hoover turned off everybody except the White House.

Mr. NEDZI. Apparently he turned off the White House to some degree.

Mr. HUSTON. Well, at least we had a person from the FBI showed up with a courier case every day, that was more than the military or Secret Service or anyone else had.

Mr. NEDZI. You also said in your memorandum to Mr. Haldeman that the intelligence community welcomes direction and leadership from the White House.

What led you to that conclusion?

Mr. HUSTON. Well, I think there was a feeling, it was my conclusion there was a feeling that there was a certain jealousy between a number of these agencies. For example, when I was at DIA, the spirit of cooperation for example with CIA, there was a certain—I don't want to say "resentment"—but there was something that bordered if not on jealousy, a certain reluctance to fully work in harness the way I would think would be appropriate. That was certainly true at the FBI. The first meeting we had at Mr. Hoover's office, Mr. Helms walked in and said "Good morning, Mr. Hoover," and Mr. Hoover said "Good morning, Mr. Helms." That was the first I had run into both of them together. It struck me unusual for two principal people like that who obviously knew each other for years, would be Mr. Helms and Mr. Hoover. Maybe I attached more importance to that than I should. At the lower level it was clear to me these people felt NSA people thought this was an opportunity honestly to get their problems solved or worked on. I can't say in all fairness to CIA that they shared that view. I think CIA would have been perfectly happy to have stayed out there and done whatever they were doing without much regard to whether they had any leadership from the White House or not.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. It might be a good time to ask this question.

Did you see any encroachment of the CIA on domestic matters that should have been handled by the FBI?

Mr. HUSTON. No, sir. I mean there seems to be some dispute, or maybe there is no dispute, but some misunderstanding on some people's part as to the requirement of the National Security Act that the CIA should have "no internal security function."

But the CIA certainly never raised that question. It was my understanding that in the context of that restriction, we are talking about the subpoena power, essentially it was saying CIA should not engage in any activity within the continental United States. We never asked the CIA to do that and to the best of my knowledge they never did.

Mr. BRAY. My next question may seem a little odd because this committee, whether you are aware of it or not, was going into this matter of protecting of national intelligence well even before the Water-gate started, and the Pentagon Papers.

One matter that has concerned me is the fact that the CIA has no domestic responsibilities, and I agree with that.

But we have informally discussed the matter that at times the matter will come up where it is necessary for them—maybe someone of their agents given activities in this country.

I can see where it would be almost a necessity to do that. But yet if you let down the bars from their original job, you don't know, you may open Pandora's box, you don't know how far it will go.

We toyed with the idea of perhaps legislation that the CIA would have the authority to ask for, there would be no question about it, certain information for the FBI to obtain for them. Maybe it would come from a higher authority some way. Have you ever thought of that?

Mr. HUSTON. Well, sir, I think that that is true. I personally would be opposed to CIA having any authority to operate within the United States in terms of positive operations. And I think that anything that the CIA needs, the FBI could provide. If you have a climate in which the FBI is willing to work with the CIA, and frankly it was obvious in 1970 we did not have that climate, so you have to institutionalize that.

One of the things I was most concerned about was the result of the publicity attendant to this report. It is my fear that Congress is going to react in such a way as to prohibit the Central Intelligence Agency from collecting intelligence abroad relating to U.S. nationals who pose a legitimate security problem in this country because, if you do that, it simply means that we are going to be blind in a period in which so much activity is going on abroad. And I know CIA was very much upset when they opened those FBI liaison offices abroad. I think if you put those restrictions on the CIA all you are going to do is make this problem even worse. There will be someone over each other abroad.

Mr. BRAY. Considering that, I thought it might be a good idea when, if the FBI wanted information from abroad, they would ask for it through channels, and ask for it in writing so there couldn't be any question about it. The same applied to internal matters from the CIA, matters the CIA desired to obtain.

You have had quite an experience in intelligence work. You have been in intelligence locally, and you have been with the CIA; I believe that is correct, isn't it?

Mr. HUSTON. Yes. Well, I think, Congressman, the question you raise really goes back to the question the chairman raised as to why I thought we needed another so-called Domestic Intelligence Operations Board. And the answer to that is, although you can provide written information, that in the final analysis it has always been my view one of the greatest dangers is having the perspective of different people. A lot of people complain about the cost of duplicating intelligence collection. But to me there is a certain safety in that. And also there is a certain safety in having the people from a different perspective work on analyses. I think it is appropriate for CIA, for example, to

ask the FBI in writing "Here is what I want." But I think Mr. Hoover's idea that you shouldn't be able to get together and talk about it isn't safe.

Mr. BRAY. I would certainly agree with that. But merely to break down in a certain field, then it would be personal liaison.

Mr. HUSTON. Yes.

Mr. BRAY. You would know what the other agency desired?

Mr. HUSTON. I think it would be appropriate in terms of oversight, when those kind of contacts are made to require the agency to report it to Congress, if appropriate.

In other words, I never had any concern, and I don't believe any member of the intelligence community ever had any concern, that Congress would in any way limit what they were trying to do. In other words, we were not trying to operate in secret a way for fear someone was going to put the clamps on this thing.

There is a legitimate concern here, and we had it in 1971. I don't really know how you come to grips with it. You make a good suggestion.

Mr. BRAY. The history of intelligence gathering shows it has been the rule, not the exception, that the foreign intelligence gets involved in locals. Russia has had her problems, historical problems in that field, as I expect you are aware.

This committee is looking into the Watergate matter, which is really of no concern of ours except as it applies to national intelligence. I just wanted to get your opinion. You see no reason why there couldn't be an exchange. Each of them working with the other but yet the information had to be asked for by one of them, the FBI for information abroad, and for the CIA it would be the FBI for information in this country.

Mr. HUSTON. Yes, sir. But I think sometimes you don't want to preclude the opportunity for one agency to voluntarily make information available.

Mr. BRAY. Oh, no.

Mr. HUSTON. If the CIA happens to come on a plot being hatched in Europe to blow up the Statute of Liberty they should be able to make that information available to the FBI.

Mr. BRAY. They should be able to do that. But you should not run into the other's field. The FBI runs into many matters having to do with foreign intelligence?

Mr. HUSTON. Yes, sir.

Mr. BRAY. Thank you.

Mr. NEDZI. Mr. Huston, following the recall of the memorandum ordering into effect the recommendations in the report by the President, what happened?

Mr. HUSTON. Well, I was told that there was going to be a subsequent meeting with Haldeman and Mitchell and Mr. Hoover to essentially go over and deal personally with Mr. Hoover's articulated objections. In anticipation of that, I wrote the memorandum, which I presume the committee has, in early August which was essentially what I regarded as a rebuttal memorandum to the objections that Mr. Hoover was likely to raise.

I never heard if there was any such meeting or not. I wrote that memorandum. I think I wrote another memorandum again urging if

there was going to be a meeting—I think Mr. Hoover left to go to Florida or something around this time—so that for a period of I would say probably running through most of August I was really uncertain as to what the status of it was, but I was, frankly, no less convinced then than I had been on July 23 that the President made the right decision. But it was some time I think in August that Mr. Haldeman—maybe it was in September—I don't remember exactly—but I heard nothing from anybody, frankly. I was writing memorandums and nobody was responding.

Mr. HÉBERT. You were writing letters to yourself?

Mr. HUSTON. That is right. I wish I hadn't written so many of them.

So I think it must have been in late August or early September, finally Mr. Haldeman called me over and he told me essentially that John Dean was going to have responsibility as counsel to the President for all matters relating to internal security, domestic intelligence. I don't recall, I hate to paraphrase a conversation like this, I can only really give you impressions rather than quotes.

Mr. NEDZI. We understand.

Mr. HUSTON. In essence what I thought he was saying to me was, Tom, you really alienated Mr. Hoover. You might as well face up to the fact there is no way in the world you are going to be able to deal with this guy. John was with the Justice Department, and he is going to work on it. I would like you to switch from the procedure writing staff to John's staff. We will give you a new title—no more money, but a new title, and you will work for John. He was very nice about it, and I thought, frankly, exceptionally nice for him in terms of trying to sooth over my feelings on the matter.

So then shortly thereafter John called me down—John Dean called me down and said Haldeman had called him and told him what he said to me and John said he would be glad to have me on his staff, that he understood that I might resent the fact that he was coming in and taking over this project and other areas that I had operational responsibility for, but that he hoped that we could work together. I told him that I had been around long enough to know that you had to be a team player, and if that is what the President and Haldeman wanted, that was fine with me, and I would work for him and do whatever he told me to do.

So, really, we discussed at some length at that time the report, and he didn't really express much comment one way or the other about what he was going to do about it. In fact, it wasn't until I saw him testify the other day I heard about or saw this September memorandum which he sent to the Attorney General which recommended some other DEC or Intelligence Evaluation Committee.

After that meeting with Haldeman, that was the end of it. I kept writing memorandums. I remember when the Arabs brought down that—hijacked that plane over in, I think it was, Jordan or Egypt somewhere and brought it down, and planted dynamite on it, there was a lot of concern thereafter about hijacking, and Peter Flannigan had a meeting at the White House of all the groups concerned in that area, including the FBI, and one of the things they requested was the FBI to give them a report on how they could get intelligence help here. I remember writing a memorandum saying: "I don't know what

he knows about it, but we went all through this once, and you might as well realize paper decisions don't translate through."

So I must confess I was still putting in my two bits worth, but for all intents and matters I knew and Haldeman accepted the fact I was no longer really involved in this area. I continued to see the FBI people. They would bring the reports into me and I would pass them along.

Mr. NEDZI. What was your judgment of the quality of the intelligence at that point?

Mr. HUSTON. Well, we still weren't getting what I still thought we needed.

I wanted, for example, Mr. Chairman, I wanted to see a report that gave us an analysis of looking ahead for example in the military. What are the prospects that disorder is going to result in military problems; we were pushing a Volunteer Army. We made a commitment for a Volunteer Army. How in the world could you have a Volunteer Army if you had so much disorder and resentment and you couldn't recruit and couldn't maintain. What I was saying was this: I would like to see things translated into more of an analysis thing that would be useful in a policy plan. We weren't getting a lot of that. The reports we got in, there were a lot of things I didn't think we really needed to know about, and I filed them away. But generally speaking, I don't want to sound like I thought the FBI wasn't doing as good a job as they could, I don't think the people who were responsible thought they were doing quite as good a job as they could do. They didn't have the personnel, the intelligence always got the raw end of the stick on appropriations in personnel. That was true in the Bureau as well as anywhere else. I don't think I was unjust. In some areas they were good. There was some concern how effective they were being in terms of espionage. I think Mr. Sullivan and others over there felt they weren't doing the job as good as they should, as they couldn't get the people they needed.

Mr. NEDZI. Were you surprised by the subsidence of the violence?

Mr. HUSTON. Yes, sir, I was. I have been giving a lot of thought to why it happened. And I frankly have not identified all the factors. I begin to see certain things that I think give us some indication of why it happened. There are still gaps in my recollection. I am 2 years away from the access to the information the Government has. Based on my own analysis I have some good ideas why it happened. Yes, I am certainly surprised—I am pleased.

Mr. NEDZI. Do you still see a need for an interagency domestic intelligence committee?

Mr. HUSTON. Yes, sir, for this reason: Now that it has subsided people are going to approach this problem with a greater degree of detachment than I was able to do when I would get a report of two or three more bombings and police officers being killed. Those are not the climates in which these kind of decisions should be made. Actually in the time when actually you think the need is less is the time when you should look at that. I believe today we have a problem in this country we ought to face up to. There are people who are interested in destroying our system and killing innocent people. That there are foreign governments that engage in espionage in this country. I think we are kidding ourselves to think that is not true.

Mr. NEDZI. I don't think there is any question about that, but the question is whether it takes an interagency domestic intelligence committee to cope with it. Why can't the FBI handle this, assuming you have an FBI Director who has more understanding?

Mr. HUSTON. I think they can, but again going back to this October 1971 article in the New York Times, because I was not in Washington I had nothing to do with it, this to me was a very revealing article because it was obviously being background leaking from the various intelligence agencies which was highly critical of FBI and Mr. Hoover. In fact the allegation being made was the FBI wasn't doing anything approaching the job necessary to deal with the problem. It was being apparently, at least from the story it appeared to me, being leaked not within the FBI but from without. I know, for example, if only the FBI is going to do this area, then you might as well figure you are going to have to expand those FBI so-called liaison offices abroad and make it operational. Then you will have FBI people knocking over CIA people military intelligence people all snooping around trying to get the same information.

Mr. NEDZI. Why can't that be handled in USIB, speaking about the coordination?

Mr. HUSTON. If it could be done legally within USIB, and with the acquiescence of the FBI, in other words, we have one advantage now we didn't have then. I think you can start with a fresh slate with regard to operation.

Mr. NEDZI. That is my point.

Mr. HUSTON. If I were doing it today I would do it with a subcommittee USIB. I don't know Mr. Kelly, but I don't suspect he would object to that.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. You say a subcommittee. Is it not an operating committee, what you would call a liaison committee to keep liaison on this specific substance?

Mr. HUSTON. Yes, sir, but I think sometimes it has been my experience, limited as it is, sometimes when you get a report, for example from CIA, of a situation that has occurred abroad, you get a written report, it is very difficult for a guy who writes that report to really denote all the connotations of what he sees in that related to other information he has had and analyzed. So you give it to the FBI and they incorporate it. I think at some point it is useful, once it is incorporated, to go back and let the people who collected it look at it and say "Wait a minute, that is not quite what we meant." Maybe this isn't necessary, and certainly not as necessary as the collection is, but analysis to me is what intelligence is all about. It doesn't do any good just to have it, you have to be able to analyze it and make good sense out of it.

Mr. BRAY. I can see a great deal of utility in liaison between the various agencies that deal with a certain type of violence. I can see good reason for that. Sometimes I wonder why the military intelligence didn't get a little closer together.

Mr. NEDZI. Mr. Huston, did you ever express concern that the CIA refused to cooperate with you on this project?

Mr. HUSTON. Well, I must say that I came—my only dealing with the CIA, as I recall, at the White House prior to this was a brief visit with General Cushman asking him to get information for the June

1969 report, and I may have talked to people at that time and asked them to give me information. But around when I was at DIA, frankly the CIA wasn't the most popular group of people in town.

Mr. NEDZI. We are aware of that.

Mr. HUSTON. The people over on the national security side, there were disagreements with Mr. Helms and some of the operations of CIA, which I only picked up, you know, at lunch and that sort of thing. So I must confess I came into this thing in June of 1970 with a certain predisposition to assume that CIA wasn't going to cooperate, and if they did cooperate, they wouldn't be very helpful at all.

Frankly, as I think my subsequent memorandum made clear, I found Mr. Helms to be cooperative. I found him to be an exceptionally bright guy, and a man of integrity, and the people that worked for him. I think you know my memoranda reflect that view that I thought very highly of him and of what the Agency had done. I felt they could do more in the area, and I recommended that they do more.

Mr. NEDZI. In which area are you speaking of now?

Mr. HUSTON. In terms of this coverage abroad. I felt we didn't have as good a coverage, for example Mr. Kissinger would meet in Paris with Madam Binh, who is the head, as you know, Foreign Minister of the NLF. My feeling is, or was, when a person who was the leader of the anti-war movement and was involved, and the guy in Chicago met with someone of that high rank it was of legitimate interest to the Government to try to ascertain what in the world was going on. I felt that was the responsibility of the CIA, as an example.

Mr. NEDZI. Was it your feeling there was a decline in CIA of this kind of coverage?

Mr. HUSTON. Well, it was only secondhand information. To that extent I was aware of the problems that had arisen I think in 1965 or so when exposure of the funding of the National Students Association occurred. As I recall, there was at that time a Katzenbach directive or something out of the State Department that in essence placed some restrictions on CIA coverage.

As I recall, the CIA position was there were no restrictions. I think in my memorandum I said to the President, or sent to the President, the CIA says there isn't any restrictions to be lifted, by my answer was, whether or not that was so, we ought to emphasize the point and get a little more aggressive.

Mr. NEDZI. What was the reaction of the CIA?

Mr. HUSTON. I never heard of a reaction. By the time it would have been likely for them to react, this thing had been turned around, the memorandum came back. I assumed they concluded after the memorandum was recalled and they never heard anything more from us, that they could assume any directive to them was no longer operative.

Mr. NEDZI. Was there ever any suggestion that the CIA become involved in any domestic operations?

Mr. HUSTON. No, sir, I never heard any suggestion. Just like the military, we felt that the military had no business in this area. President Johnson had done that in an emergency situation. The FBI had opposed it. Frankly, the FBI didn't want the CIA or the military in this area under the previous agreement that they had had, par-

ticularly with the military—I forget what they call it—the triparty agreement, or somewhat or other.

Mr. NEDZI. Was there any concern about the adequacy of domestic electronics surveillance of diplomatic posts?

Mr. HUSTON. Yes. It is my recollection—again I don't recall any big thing about it, but I think I reported that as having been a concern. I am sure that at the time I wouldn't have said that if it weren't true. I just don't recall any specific thing. The biggest concern that I recall, obviously, that would stand out in anybody's mind, was the NSA concern about getting cryptographic material.

Mr. NEDZI. Of course that wouldn't pertain to electronics surveillance?

Mr. HUSTON. No, sir. Well, by "electronics surveillance," to a certain extent NSA—well, I guess—I do know NSA had—the FBI had in the past placed taps on cable machines, or something. Again I don't know anything about the operational end of this. But I do know at the request of the National Security Agency the FBI had, for example, under President Johnson, placed taps on the [deleted] not just on telephones but on some sort of cable-sending device or something.

Mr. NEDZI. Do you recall any concern being expressed by either CIA or NSA in this regard? I am talking about electronics surveillance?

Mr. HUSTON. I just don't recall anything. I just don't have a feel one way or the other for that, Mr. Chairman, I just don't.

Mr. NEDZI. None of the agencies ever submitted any estimates on what manpower was necessary, what kind of budget increases were in order, in order to carry out the directive?

Mr. HUSTON. No, sir.

Mr. NEDZI. Do you have a question?

Mr. SLATINSHEK. Yes. I would like to pursue for just a moment the discussion you had with Mr. Haldeman which resulted in the termination or withdrawal of this order or this document to the agencies.

I gather from your testimony in response to Mr. Nedzi's questions that Mr. Haldeman was acutely aware of the President's decision to withdraw the documents, and that this was predicated upon Mr. Hoover's objections.

Can you elaborate somewhat on Mr. Haldeman's reaction to all this? You had put in the better part of a year on this project one way or another, and suddenly it was being terminated.

I am sure you were upset, as evidenced by the memorandum you subsequently wrote.

Mr. HUSTON. Yes, sir.

Mr. NEDZI. Could you tell us a little more about your discussion with Mr. Haldeman?

Mr. HUSTON. I, frankly, don't recall anything more than that. Mr. Haldeman was not a very accessible person. To talk with him on the phone was probably as rare a treat as in the previous administration it was for a staff member to talk to the President on the phone.

I don't remember the details exactly. But I do know I sent the report to Mr. Haldeman with the recommendations. He sent me a memorandum saying it had been approved. I then sent the decision memorandum and that came back approved, or he called me and told me it was approved, or someone called me that it was approved, as I

know I wouldn't have sent it out otherwise. I can't testify as to how much knowledge he had. It may be Higby who had called me. Frankly, I don't know how many people you have from the White House up here. If you talk to very many of them, Mr. Higby spoke for Mr. Haldeman as Mr. Haldeman spoke for the President. Sometimes you didn't keep track of who you talked to. I may be in error on that, but I think Bob called me and told me to get the things back. I know he was aware, I don't think I had to tell him what I knew about Hoover being upset. It could be 3 years ago, and I have no written record. I could be wrong. I am willing to admit that. But in reconstructing in my own mind, it has always been my belief that Bob was aware of the fact that Hoover had gone to the Attorney General, and I didn't have to tell him that. The fact, I think it was unlikely, I don't remember sending him any memorandum telling him about my call from Sullivan, because I think the last thing I would have wanted to do was to alert him there was a problem in that respect, because I knew the decisions come and go in that White House like rain.

But as I recall the thing, he was the one that contacted me and told me to get these things back, and indicated to me he was going to meet with Mr. Hoover and the Attorney General. I know I wouldn't have written that memorandum in which I said, "In anticipation of your meeting with Mr. Hoover and the Attorney General," if he hadn't or someone hadn't told me they were going to do it.

Mr. SLATINSHEK. That is all.

Mr. NEDZI. Mr. Huston, in the composition of this ad hoc committee, why was not the State Department or the Atomic Energy Commission included?

Mr. HUSTON. I don't see where really the Atomic Energy Commission has any information to be useful in terms of domestic intelligence or internal security.

As far as the State Department, they have, as you know, a relatively small operation over there that is really concerned more with what is going on in Germany, as it affects the Germans, than it is with what American nationals who are in Germany may be doing in anticipation of something that comes back here.

But I think I did provide that if we got into areas that clearly affected another Department that wasn't a permanent member, they would be invited to participate on that particular problem, including the State Department, the Treasury Department.

Mr. NEDZI. Except we have diplomatic posts all over the world. Wouldn't it have been logical to include the State Department if we are trying to coordinate all of the intelligence available to us?

Mr. HUSTON. Well, I may be wrong about that, Mr. Chairman, but that wouldn't have been my view.

My feeling is that most of the intelligence gathering abroad in areas of interest to us would be information done by the CIA or information that came to the CIA, and that they were the logical people to be responsible for all matters that occurred outside of the United States. That is my view. I don't claim it is necessarily the only view or the right view. It is my view.

Mr. NEDZI. Does Dr. Kissinger have any role in this meeting?

Mr. HUSTON. No, sir.

Mr. NEDZI. In your report, you recommended the establishment of a permanent committee?

Mr. HUSTON. Yes.

Mr. NEDZI. Did all of the agencies agree with this recommendation?

Mr. HUSTON. No. I think one of the operations was a temporary, or ad hoc, committee—I remember CIA wanted to see how it worked. They thought we ought to see how we got along and what we did, and how it worked. Mr. Hoover didn't want it at all. That was two alternatives.

As I recall, Mr. Sullivan and his people, the military services, the representatives of Army, Air Force, General Bennett, and Admiral Gayler's people, all these people felt what had been going on in that month demonstrated a potential of working together and doing this, and especially we ought to proceed immediately to build on the basis later on in June in that area.

Mr. NEDZI. Was there any evidence that there was a significant connection between the violence that was occurring in this country and foreign governments?

Mr. HUSTON. Well, that gets into a difficult area. I never felt, first of all, that we had what the President would have called hard evidence.

You had peripheral evidence. For example, we had some evidence of funding, of money coming in through the Cuban mission to the United Nations that was going to groups that were involved. We had evidence, for example, of the Dohrn diary that showed evidence that while they were in Cuba were receiving guerrilla training in meeting with the Vietcong.

Mr. NEDZI. How extensive was the financing?

Mr. HUSTON. I don't recall. I think it was ultimately my conclusion, as I note from the text—I don't have all this information I had then, but I had a speech that I gave just before I left the White House when I felt it was safe, I was leaving anyway, that I talked about that question. I remember, and in that speech I said I felt the amount of financial support of the antiwar movement and the groups that we knew about really wasn't very significant. At least it wasn't significant—we didn't have proof to show it was very significant. The main financial support came, for example, in free tickets and transportation, and that sort of thing, to let all these people go to the conference. As far as the Paris groups, we didn't know enough about their financing to know where in the heck it was coming from. I think I didn't change my mind very much from June of 1969 on that question. I just never really thought that the funding thing was that big a problem.

Mr. NEDZI. In September, or so, you started to work for Dean?

Mr. HUSTON. Yes, sir.

Mr. NEDZI. Did Dean have anything to do with your work prior to that point in time?

Mr. HUSTON. No.

Mr. NEDZI. Did you have any input with respect to setting up the Intelligence Evaluation Committee?

Mr. HUSTON. I can't remember whether John discussed it with me or not. I don't think so. But I am not sure. He may have. But I remember—the only thing I remember about it was, I remember when Judge Sharp was in town, he showed up in my office one day, or someone called and said he wanted to see me. As I recall, I may be wrong,

but it seems to me Bill Sullivan sent him down to me. I don't think Dean did, but maybe he did. Judge Sharp called me and told me he was in town and wanted to set up such a group of this sort, and Mr. Ehrlichman wanted him to be in charge of it or chairman of it.

I knew before Sharp came in what his background was a little bit. He was a judge that had been on the bench and had been defeated or something like that, was waiting to get back on the bench at some time in the relatively near future. I met with Judge Sharp. It was obvious to me he didn't know anything about intelligence. It was no fault of the man. He had no experience whatsoever. His principal qualifications seems to have been he was a friend of Mr. Ehrlichman, and he made it clear to me he intended to go back on the bench.

I told him in the most candid terms possible I thought the biggest mistake he could make would be to get into this position, because it was necessarily going to have to be secret. He couldn't discuss what he was doing. It would be hard to explain, if a guy is a judge, and you are out of town for 3 or 4 months, in Washington, people would say, "What are you doing?" "I am sorry, I can't talk about it," it just won't work.

He then turned that job down. Now, it was about this time, and I am very unclear about the sequence here, I don't remember whether it was late summer or fall, but at some point, whenever it was, Mr. Mardian went to the Internal Security Division—it seems to me that it was maybe in the fall or maybe November or sometime in 1970. Bob called me over there and asked me if I would come to the Justice Department as his principal deputy, and he told me because of my experience in this area and everything, he would like for me to work with him. We talked an hour or 2 hours generally about his views and what he intended to do, and I expressed some disagreement with his views—

Mr. NEDZI. Which areas?

Mr. HUSTON. Well, I guess there was a difference—even though my experience had not been that great, but mine was that essentially of an intelligence person. My concern in this whole thing, I wanted to save people's lives. I didn't care too much whether you convicted some guy and sent him to jail for a year. I wanted to stop things before they happened.

Bob, after all he was in the Justice Department, he had the prosecutor's mentality. You have to prosecute people and get convictions. Of course, in that case you fall back on the conspiracy statute. I have never been very hot on that statute, plus operationally as events have shown, it is very difficult to ever get any convictions.

My concern was, and one of the reasons why I never felt like bringing the Justice Department into this thing to start with, my concern is once you get this kind of intelligence operational thing linked to the prosecutors, then the idea is to use these techniques to get the information to use as evidence to secure prosecutions, and it was always my view from an intelligence point, once you did these things, you forfeited the right to prosecute. You had to make that calculated decision.

In any event, I had certain fundamental differences with Bob, in our discussion, but I thought maybe—I knew he and Dean were close. I thought maybe this was the message, the time had come for me to go on.

So I went back and talked to Dean and I said, "You know I have had this meeting with Bob Mardian and he wants me to come over there and be his principal deputy and more money and all that, but quite frankly I don't want to go. I don't think we would work together very well." But I said I wanted to know if there was "something you wanted me to do."

He said, "No, you could stay or you could go, whatever you want."

I said, "Well, I will call Bob and tell him no." So after that, then I could hear through my friends at the FBI, and I heard—I remember being told that this first meeting of the group held in Dean's office, and I remember, I think Sullivan or people would tell me Mr. Hoover really wasn't cooperating. He refused to assign people to their staff. They had space in the Justice Department, even Justice Department personnel. It was obvious to me it was much different than what we had talked about in our area, where the FBI would have been head of it, it would have been established by the FBI.

Beyond that I just never really knew much about it. As far as I knew, it wasn't doing anything, or any very substantial thing.

Mr. NEDZI. Wasn't this designed to serve the same purpose?

Mr. HUSTON. You are asking me something. Mr. Chairman, I don't really know. If anyone had asked me, I would have said it wasn't designed to do the same thing. It was also obvious to me they knew my views and decided they didn't want to ask me.

Mr. NEDZI. Did you have any impression as to what this committee was supposed to do?

Mr. HUSTON. I think it was supposed to do essentially what the committee that I had recommended was supposed to do, but certainly when I heard about it, I didn't think there was the remotest chance in the world it would do so, simply because it didn't seem to me those people over there could expect to do anything where you didn't have the cooperation of the agency that was principally responsible.

Mr. NEDZI. Did anyone ever give you any idea as to why you weren't involved in deciding about that committee?

Mr. HUSTON. I had the clear impression—I knew Mr. Hoover didn't think very highly about me after all of this. He blamed me personally for the fact the President had overruled his objections. I thought he thought the President had been duped or deceived or something, and I was the culprit. I considered that, I considered myself expendable. I had other work I had to do, so I quit doing them. After a while, I decided it was time to leave, so after the first of the year I started looking for a job.

On April 2, I sent my resignation in and left in June.

Mr. NEDZI. Did Mr. Dean ever ask you to participate in the setting up of this intelligence operation?

Mr. HUSTON. No. I understand from his testimony, he says Jack Caulfield was his personal man. I am sure it wasn't me.

Mr. NEDZI. What kind of work was he giving you at this time?

Mr. HUSTON. I remember I checked a couple of cases involving executive privilege, and cases involving conflict of interest, reviewing Executive orders. They were just routine—

Mr. NEDZI. What do you mean by that?

Mr. HUSTON. Every candidate for Presidential appointment would be cleared through the counsel's office for potential conflict of interest.

They would submit information and report stuff, and we would review—for example, they would have to give a list of all their stock holdings and that sort of stuff.

We would review the thing and find out whether there was a potential conflict, if somebody sent the name up to the Hill, it didn't surface. We didn't do that with a nominee for the Supreme Court. For other Presidential employment, we did review them in advance.

Then I had a continuing assignment from the President, as I say, in the foreign policy area, and I continued working on that, which took a certain amount of time.

Mr. NEDZI. What did you do there?

Mr. HUSTON. I was preparing a report for the President on the history of the negotiations leading up to the bombing halt in 1968.

Mr. NEDZI. Did you have occasion to work with Mr. Hunt?

Mr. HUSTON. No, I never met Mr. Hunt.

Mr. NEDZI. Who did you work with?

Mr. HUSTON. General Haig and Dr. Kissinger. I worked through General Haig and his people in terms of providing me the information I needed. But primarily it was essentially a writing job.

In other words, I would get all the diplomatic cables and all the material that was available to the Government, and go through and put it in narrative form. When I got done with it, it was 400 or 500 pages, which no one will probably ever read, but it was essentially a history of the negotiations leading up to the bombing halt in 1968.

Mr. NEDZI. Did you work with anybody from the State Department?

Mr. HUSTON. No, I never made any direct requests. I would always go through General Haig to ask him to request the information.

Mr. NEDZI. He had these cables and the information in his file?

Mr. HUSTON. Well, I assume he got it from the State Department. If I needed something, I would see a reference to a cable or something, I would ask General Haig to get—or Dave McManus or someone in the situation room, people assigned to provide me that report, and they would get it for me.

As I say, I viewed the job essentially that as a historian or writer. I was just writing this history.

Mr. NEDZI. What is McManus' job?

Mr. HUSTON. He was in charge of the situation room. In other words, he was like an office manager. People over there handled the cable traffic and everything coming out of the White House worked for him.

Mr. NEDZI. When you asked that the memorandums which the President rescinded be returned, you asked they be returned to McManus?

Mr. HUSTON. Yes. I arranged for it to be returned through him. He had courier liaison for this classified information between the various agencies.

Mr. NEDZI. Did you deal at all with Mr. Ehrlichman?

Mr. HUSTON. No. As I say, I don't recall whether Mr. Ehrlichman was in the April meeting or not. It seems to me he was, I may be wrong about that. After that I never dealt with Mr. Ehrlichman. As far as I know—of course, Mr. Ehrlichman was at the June 5 meeting, but after that, as far as I know, he had no reason to know or have known there was a committee or there was a report.

Mr. NEDZI. Did you deal with anybody else at the CIA besides Mr. Helms and General Cushman?

Mr. HUSTON. Well, as I say, there were people from CIA on the working group, but I frankly don't remember what their names were. I met with them out there, and then there was another fellow that I remember calling a couple of times, but I am terrible at names and they didn't make any distinct impression on me. It was condensed in such a relatively short timeframe I just don't remember.

I do recall there was a fellow who I assumed was a relatively senior man who was essentially their representative on the working group, and then there was a younger fellow, the one I remember talking to on the phone a couple of times. But I just don't know their names. I didn't have any dealings with them that I recall after this was all over.

Mr. NEDZI. Mr. Huston, why did you leave Government employment?

Mr. HUSTON. Well, I never planned to stay more than 2 years. I graduated from law school, I received an offer from the firm I am now with that I accepted. I went in the Army, and then when this opportunity came up, I told my firm that I felt I ought to take it and I would be there 2 years and then come back. So I planned to leave anyway.

But early—in the administration, probably it is no secret to any member of this committee, I am a fairly conservative fellow. I had disagreements with the administration on some of the policies that we were taking, which were somewhat different than I was led to believe during the campaign we were likely to take.

Also, you can tell from my memorandums, I also kind of figure if you are going to bomb in Laos you ought to say you are bombing in Laos and not launch a protective action strike. If the South Vietnamese are retreating, you ought to say they are retreating, and not say they are withdrawing. I had a certain view of the way in which we ought to do things. Early on—frankly, at this time we are talking about, I felt that this was something that I was doing that I felt was important to the country. I didn't see there was any particular political mileage in it for the President. It was something I simply felt the country needed.

When that was over, and it became obvious when we got in the 1970 campaign, after the 1970 campaign it was obvious to me we were going into the 1972 campaign the next day. It didn't appeal to me. So I started looking to see if I could get a job, and they said they would take me back. So in April I submitted my resignation and left in June.

The President asked for me, or arranged for me to be there. When I left I felt it was my obligation out of a sense of loyalty to keep my views to myself as to what I had done or disagreed with, it should be kept to myself. So I just practiced law. The only political involvement I have had since 1971 was to vote. That is it.

Mr. NEDZI. What was your salary?

Mr. HUSTON. \$24,000.

Mr. NEDZI. Do you have any questions?

Mr. SLATINSHEK. No.

Mr. HOGAN. I have one or two, Mr. Chairman, thank you.

For the purposes of our record, Mr. Huston, did I understand you

to say that I believe it was the June 6 edition of the New York Times that published your recommendations on the Interagency Committee's findings? Did you find that to be reasonably accurate?

Mr. HUSTON. Yes, sir.

Mr. HOGAN. Then, also, your memorandum to Mr. Haldeman was published in that same—covered those recommendations. Did you find that to be reasonably accurate?

Mr. HUSTON. Yes, sir. I think the New York Times accurately printed that, except for typographical errors that are obvious.

Mr. HOGAN. In that memorandum I believe you indicated the President should not put his signature on any of the ultimate selection of the options?

Mr. HUSTON. Yes. Of course my view was the President should have called these people back in his office the same way he had called them in to start the thing. He should have called them in to conclude it, and that he should have told them orally what his instructions were.

In fact, before that he should have called Mr. Hoover in alone, in a stroking session, which is comparable in the Democrats when President Johnson was giving you the treatment. This was in a matter of fact dealing with people. Around the White House they should establish incentive to deal with people as people. Mr. Hoover, I think, deserved to have the President go an extra mile because he obviously disagreed.

That didn't happen. When Haldeman told me we should have a decision memorandum, what should go out from the President, Haldeman or me, I thought if it went out from me it was likely to cause some problems, because of my junior status. I knew that was particularly true of Mr. Hoover, because Mr. Hoover didn't like to address communications directly to me, even though the policy was everything coming into the White House in this area would come to me, it would always be addressed to Mr. Ehrlichman, Mr. Haldeman, or to the President.

I knew he wouldn't look very favorably to a memorandum from me. I felt in intelligence generally you shouldn't have a lot of paper floating around, but if there was one, then it was a question of who was going to take the heat. I was perfectly willing to take the heat. I was being paid to do a job, no different than when I was in the Army. If I was in the Army, they told me I was to lead a combat element, you know, into battle, you do it, you take the chance you are going to be killed.

I didn't feel it was any bit different at the White House when I was doing this work that if it was necessary for me to be thrown overboard, I had the risk of doing the job. I said, "Fine, I will do the job. I am here and they are not." That is what happened.

Mr. HOGAN. Thank you.

Mr. NEDZI. Mr. Huston, we want to thank you very much for taking the time to come and give us the benefit of your experience in this respect. The subcommittee appreciates it very much.

Mr. HUSTON. Thank you.

Mr. NEDZI. The committee will stand recessed until further call of the Chair.

[Whereupon, at 12:45 p.m. the subcommittee recessed, subject to call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Friday, July 13, 1973.

The subcommittee met, pursuant to adjournment, at 10:07 a.m., in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. This morning we are continuing our inquiry into the CIA Watergate matter, and we have as our witness Mr. Gerald Alch, former counsel to Mr. James McCord—is it former or do you still represent Mr. McCord?

Mr. ALCH. Former, Mr. Chairman.

Mr. NEDZI. If you will rise and take the oath.

[The oath was administered by Mr. Nedzi.]

Mr. NEDZI. Please be seated.

Mr. Alch, do you have a statement which you would like to make to the committee before we begin with our questions?

Mr. ALCH. Yes, I do, Mr. Chairman.

Mr. NEDZI. You may proceed.

**STATEMENT OF GERALD ALCH, FORMER ATTORNEY FOR
JAMES McCORD**

Mr. ALCH. Thank you. May it please this honorable committee, in July of 1972, my office received a telephone call from James McCord, requesting an appointment. On a Saturday morning during that month, I met with him for the first time. He identified himself as one of those arrested in the Watergate building on June 17, 1972. He told me that he had taken a calculated risk in doing what he did and was prepared to face the consequences. Within that framework, however, he indicated that he wanted the most effective legal representation possible and retained me for this task.

I explained to Mr. McCord that since he had been physically apprehended in the Watergate complex, he could obviously not deny that fact and inquired as to his motivation in so acting. He told me that as chief of security for the Committee to Re-Elect the President, he had received information to the effect that various antiwar demonstrations by groups which he described as "radical" were being planned for the up-coming Presidential election and that these demonstrations had, in the past and would invariably in the future, lead to violence or the threat thereof to various prominent Republican officials, including, but not limited to members of the Committee to Re-Elect the President and including, but not limited to the President of the United States. I told him that I would explore whether or not this motivation could, in any way, be embraced by a recognized legal defense.

In the ensuing weeks and months, Mr. McCord continuously insisted that his only purpose in participating in the Watergate break-in was

to protect his employers [members of the Committee to Re-Elect the President] and other Republican officials from threats of violence. He would, almost daily, send to me clippings from various newspapers published throughout the country, reflecting reports of antiwar group activities, which in some instances, involved violence. At one point, he sent to me a memorandum entitled, "Violence Planned for the GOP Convention: Summaries of News Items." A copy of this memorandum is annexed hereto as exhibit A.

[The following information was received for the record:]

EXHIBIT A

VIOLENCE PLANNED FOR THE GOP CONVENTION: SUMMARIES
OF NEWS ITEMSVIOLENCE PLANNED FOR GOP CONVENTION :

Rennie Davis , one of the Chicago Seven, the night of McGovern's
nomination, ^{"warning"} ~~speaking~~ of things to come " was delivering a high-pitched
speech to several hundred of the youths who gathered each night during
the Democratic proceedings...(Davis) exhorted the audience to come back
'with many thousands more' when the Republicans convene in the same hall
next month and to be ready to risk 'your bodies and even yo ur lives'
in the crusade to defeat Richard Milhous Nixon."

(N.Y. Post 7-14-72, P 35, James Hechsler
column from Miami Beach)

" Yippie leaders Abbie Hoffman and Jerry Pubin are pñanning to
give the Republicans a hot reception at their convention in August....Their
aim: to turn Miami Beach into a yipping, cavorting carnival when the
sober-sided Republicans come to town in August."

(Jack Anderson column, N.Y. Post 7-13-72 p 35)

Yippie is a synonym for the Youth International Party. Both Hoffman
and Rubin, their two leaders mentioned above, have been convicted for
their party in the mass rioting and destruction at the Chicago 1968
Convention, ~~and exxthexXXXXXXXXXXXXXXXXXXXX~~, and both are out under
bond awaiting appeal.

"SIX WAR FOES INDICTED IN A PLOT TO DISREPT THE GOP CONVENTION"

" Six National Leaders of the Vietnam Veterans Against the War were
indicted today on charges that they had conspired to disrupt the Republican
Convention next month with firebombs and shootings...The Government charges
the six veterans of conspiring last April 1 to cause death and destruction
during the Republican convention. The weapons to be used the govt said,
included bombs, cross bows, automatic weapons, and wrist rocket slingshots--
rubber thonged devices that can propel projectiles for up to 100 yards."

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" The charges against the six Vietnam veterans were brought under the law used in charging the Chicago Seven after the Democratic Convention in 1968. The Chicago trial was the first prosecution under the 1968 Civil Rights Act's antiriot provisions, which prohibit crossing of state lines to provoke disorders."

" Scott Camil...was ~~charged with~~ accused of teaching other members of the veterans group how to ' use and make incendiary devices', while knowing and intending that the devices would cause injuries and death"...
government contents that a 'bomb school' was held May 27 at Gainesville(Fla)
 and was attended by William Patterson..., Peter P Mahoney... Robt Wayne Beverley ... and others. Camil and Patterson and Mahoney, who is currently a member of the VVAW national staff in New York City were among the six indicted. ..."

" It was part of said conspiracy that the defendants and individual coconspirators would organize numerous 'fire teams' to attack with automatic weapons, fire and incendiary devices police stations, police cars, and stores in Miami Beach Fla on various dates between Aug 21 and Aug 24 1972...and that the defendants would disrupt communications systems in Miami Beach".
....the government charged that Camil received a shipment of eight cases of wrist rocket slingshots on July 1."

(N.Y. Times July 15 1972)

" 150 ANGRY YIPPIES SET FIRE TO PHOTO OF LBJ IN PROTEST "

" Protesting ~~Yippies~~ elements of a radical Yippies...vowed to come back in August ~~and~~ ' to burn the Republicans'"....almost all said they intended to return for what they hope will be a much larger demonstration when the Republican convention begins here August 21"
(they said)" Remember one thing! We're gonna be back in August to burn the Republicans."

(Washington Evening Star 7-14-72 page A 8 with photo)

" MILITANCY OF ANTIWAR VETERANS IS RISING"

With background information about the VVAW, the article added...."
 Altho there was no personal violence in the demonstration last December a national coordinator, Al Hubbard, said then that the veterans would (be) prepared ' to take more risks'in the future ."

(N.Y. Times July 16 1972 p 34.)

" UNCONVENTIONAL MIAMI BEACH TACTICS
 LEFTISTS MORE MILITANT TOWARD GOP"

" More Explosive factors"



....In addition to more protestors and more militant actions, several additional factors could combine to produce a highly volatile situation....
'This was a dress rehearsal for August, Zippie leader Dana Beal said after the last of the Democratic convention marches.'We will have a lot more people and be a lot more serious in August. We all hate Nixon. We are going to try to push him into the sea right here."

...." We tried to get people down here for the Democrats, said Ron Lichty, who works with the Undergroup Press Syndicate. 'But for every letter we got about the Democrats, we got 10 about the Republicans."

" The antiwar movement last winter singled out the Republican convention as the prime target this summer. Plans for August have been laid by the Miami Conventions Coalition, which includes the groups that organized the 1968 Chicano demonstrations and the May 1970 demonstrations in Washington that resulted in more than 10,000 arrests.

"....Rennie Davis and Dave Dellinger who sat out most of last weeks activities (at the Demo convention) plan to play active roles in the August protests. Davis and Dellinger were convicted of crossing interstate lines to incite rioting after the 1968 Democratic Convention."

// "...It was decided months ago that the greatest mobilization would be concentrated on the Republican convention", said Davis, "We expect the demonstrations to be large, disciplined and militant"...The resist-and-run tactics used in the May 1970 Washington--blocking roads and buildings nonviolently, but the possibility that there will be property destruction surfaces in almost every discussion." "I'm not into thrashing and burning, but a lot of people ^{talking} are ~~XXXXXX~~ about it in August", said Stefan Wanstrom of Dallas, a member of PCPJ".

(Washington Evening Star, Terry Ryan, Associated Press article, July 16 1972) BYLINED Miami Beach Fla.

" ~~THE PROTESTORSS: WAITING FOR NIXON~~ "

" THE PROTESTORS: WAITING FOR NIXON"

....David Dellingerwas asked about the chances of violence in the streets around the hall as the party in power goes through the numbing ritual of renominating the White House incumbent. Would the Republicans get a dose of the medicine the Democrats got in Chicago in 1968?....

" He said that the coalition of protest groups arranging the demonstrations for August had no such plans. But, very soberly, he added ' if anybody thinks he can fight against the Vietnam War and poverty ~~xxx~~ without risk and danger, he doesn't understand what he is getting into' ." " It was fair enough warning.

" Although Dellinger and Rennie Davis and a pretty newcomer to the national protest scene, Shari Whitehead of the Miami Conventions Coalition, disclaimed any plans for physical clashes, the risk would be there."

" ~~XXXXXXXXXXXX~~.... Among the protestors traveling south next month will be a proportion of people whose idea of dissent is trashing and clashing."
question

"The ~~q~~ u Dellinger couldn't answer was just how large a proportion they will be."

" Another question Dellinger and Davis declined to tackle was the total number of marchers who will advance on the Convention Hall. " Look", he said " It depends on the political atmosphere. I'm saying today there will be tens of thousands. But that could be halved or doubled depending on what the Nixon administration does between now and then. If the war heads up..."

(N.Y.-Sunday-News , Anthony Burton, 7-16-72 p 61.)

Mr. ALCH. On another occasion, Mr. McCord sent to me an additional memorandum reflecting his alleged motivation for his conduct which document included various legal citations of law which he believed to be in support of the defense he wished me to present. A copy of this memorandum, under cover of a handwritten note from Mr. McCord, dated July 23, 1972, is annexed hereto as exhibit B.

[The following information was received for the record:]

EXHIBIT B

Herald -

I well understand that it is your job and not mine to work up a defense. Nevertheless I have been putting together some ideas, and collecting every newspaper clipping I can find which may be of help later.

I am strongly oriented toward the grounds of self-defense, and defense of others, and of property, as my defense. I believe we can make the strongest defense on these grounds. We will of course need to talk this out at length, and you have the final say in the matter.

With best regards - Jim

Section

SPECIAL DEFENSES.....	I.
A. Self defense--non-deadly force.....	IA.
B. Defense of others.....	IB
C. Defense of property.....	IC
D. Prevention of crime.....	XXXX ID

RESPONSIBILITY	II.....
A. Guilt of Other Party.....	IIA
B. Conduct of Injured Party.....	IIB

Prejudicial Publicity , , , , III

 1. *its title the cartoon*

 3. *overall publicity.*

Grounds For Charge of Venue , , , , IV

 A. *High percentage of democrats on Voting Registry for Jury Duty in D.C.*

 B. *Overwhelming Employment by US Govt of persons on Voting Registry in DC, and biased toward the prosecution (or the government) as a result*

Purpose:

Reasons: *Out of reasons of self-defense as Security Coordinator.

- * Used non-deadly force ~~against~~ to obtain evidence of DNC and others in conspiracy with violence-oriented groups to commit violence and battery against the two organizations for whom I was responsible as Security Coordinator to protect life and property for, the Republican National Committee and the Committee to Re-Elect the President
- * The obtaining of such hard evidence was only possible by methods used.
- * to intervene for the purpose of preventing perpetration of crime, and
- * in defense of person and property of the Committee to Re-Elect the President and the Republican National Committee

Background: State my mission and responsibilities as Sec Coordinator

State history of prior political espionage against GOP

List functions Al Belmont performed in gathering information among violence-oriented groups during May demonstrations in Washington, *Show their love to Democratic leadership.*

List evidence of funding by Demo leadership of violence-oriented groups' actions against Republicans (at Convention in August, *and elsewhere*)

List the long record of intentions to commit violence by demonstrators at Republican National Convention and later in 1972 against GOP

State hard data re intention of demonstrators to forge credentials and disrupt with explosives ~~the~~ communications during the conventions ~~at Miami~~ at Miami.

- * Describe the bugging of the Committee to Re-Elect the President's New York Office, known as the November Group, 909-3rd Avenue, which occurred the day before June 17th, 1972. (by elements believed associated with the Democratic Party) Get the leadership of the ~~Democratic~~ Democratic National Party before the Grand Jury and question them under oath about this and other activities in political espionage against the GOP this year.

IA NON DEADLY FORCE

" One who is himself free from fault is privileged to use non-deedly force in self-defense whenever three conditions are satisfied.

1. The first is that he reasonable believes the other intends to commit a battery upon him, or unlawfully to imprison him, and this belief has been induced by the other's conduct.
2. The second is that the defensive force used is not unreasonable in view of the harm which it is intended to prevent.
3. The third is that the defender reasonable believes he cannot avoid the threatened harm without either using defensive force or giving up some right or privilege. "

(p 995 Perkins on Criminal Law)

Cases cited:

Restatement , Second, Torts para 63(1965). See also Cooke v State 18 Ala
~~[Restatement, Second, Torts para 63(2)(a) and (b) (1965)]~~
~~Appeals 416, 93 So 86 (1921)]~~
 also: State v Woodward 58 Idaho 385, 74 P 2d 92 (1937)
 State v Evenson 122 Iowa 88, 97 N.W. 979 (1904)
 State v Sherman 16 R.I. 631, 18 A 1040 (1889)

Also: State v Gough 187 Iowa 363, 174 N.W. 279 (1919)
 People v Katz, 263 App. Div 883, 32 N.Y. S. 2d 157 (1942)
 State v Sherman 16 R I 631, 18 A 1040 (1880)

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I B. SPECIAL DEFENSES

Defense of Others

" Subject to the familiar limitations as to the degree of force permitted, one who is himself free from fault may intervene and use force to protect an innocent victim of intended crime. And under the sound view he is protected by the usual mistake-of-fact doctrine and may act upon the situation as it reasonable seems to be "

[page 1021 Perkins on Criminal Law, citing
State vs. Charello, 69 N.J. Super. 479, 174 A.2d 506
(1961)]

Model Penal Code

" The Code places considerable stress upon the privilege of using force for the protection of other persons.¹ This is in line with its general policy of downgrading the use of force in law enforcement and crime prevention and placing the emphasis upon the protection of life and personal safety.² "

J.C. SPECIAL DEFENSES

Defense of Property

- " On the other hand, one in lawful possession of real or personal property is privileged to use ~~any~~ reasonable non-deadly force if this is necessary or is reasonably believed to be necessary to prevent or terminate an ~~un~~privileged intrusion upon his right of possession¹ from which it follows that one is privileged to use such force under the same limitations to prevent the larceny of his chattel².

1. ⁸ 1 Hale P.C. 485-6; Hinchcliffe's Case 1 Lewin 161, 168 Eng. Rep 998 (1823) People v Payne 8 Cal 341 (1857) et al; Restatement , Second , Torts, para 77 (1965)
2. " In brief -- a man may defend his property by any force made necessary by the circumstances, such as assault and battery, short of taking the aggressor's life." 1 Bishop, New Criminal Lawpara 875(8th ed 1892). And see 2 id para 706; McNabb v. United States, 123 F2d 848, 854 (6th Cir.1941)"

Model Penal Code

- " The C ode provides for the use of reasonable nondeadly force for the protection of one's property.
3. Section 3.06 Also see Model Penal Code 37 (Tent. Draft No. 8, 1958) re protection of property in the possession of any other to the same extent as if it were in his own possession.

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I.D. SPECIAL DEFENSES

Prevention of Crime

" Important privileges overlap. They are:

- 1) to intervene for the purpose of preventing the perpetration of crime and
- 2) To defend person and property.

To the extent of the overlap both privileges are available to the one thus benefited. ' It is not necessary that he should intervene solely for the purpose of protecting the public order or of protecting the private interests imperiled. His act, though a single one, may well be done for both purposes. If so, either privilege is available to him' 1. "

(page 190 Special Defenses, Perkins on Criminal Law)

"...it is important to bear in mind that ' the 'privilege to use force to prevent the commission of crime is usually coextensive with the privilege to make an arrest therefor without a warrant'" 2.

(page191 ibid)

footnotes

1. Restatement, Second, Torts, Scope Note to c 5 Topic 2 (1965).
2. Id. at para 140, comment a.

Mr. ALCH. In this note, Mr. McCord again emphasized his wish that his defense be based upon the protection of others, ultimately embodied by the proffered defense of duress.

Subsequently, I advised Mr. McCord that my legal research revealed that the defense of the protection of others required that the perpetrator not know he was breaking the law. I said to Mr. McCord :

No jury will ever believe that a man with your background with the FBI and the CIA would not realize he was breaking the law in breaking into an office at night, wearing surgical gloves and armed with eavesdropping equipment.

He laughed and agreed that such a contention was, in fact, legally untenable. I further explained that the reason for his actions as he had explained them to me, would be more properly embraced by the legal defense of duress, wherein the perpetrator felt compelled to break a law in order to prevent a greater evil. Mr. McCord had explained to me his belief of a direct relationship between these potentially violent antiwar groups and the Democratic Party and that his participation in the Watergate burglary was accomplished in the hope of obtaining advance evidence of planned potentially violent demonstrations.

I advised that the law of duress allowed for the perpetrator to possess criminal intent; that is, to know that he was breaking the law and that therefore, based upon what he had told me with regard to his own motivation, this defense was not only compatible therewith, but in my opinion, constituted the only defense available. Mr. McCord wholeheartedly agreed, and I commenced to prepare the case on this basis.

I take the liberty of calling these circumstances and memorandums to the attention of this honorable committee in order to emphasize this fact: That from the beginning, my formulation of Mr. McCord's defense was based upon what he told me were his reasons for participating in the Watergate break-in. The McCord defense posture, neither in my pretrial preparation, nor at the trial itself, in no way involved the CIA.

With this as a background, I now turn to the events which occurred in December of 1972. Mr. McCord sets the date as December 21, 1972, and although my recollection is not precise on this point, I have no reason to quarrel with it. On or about that date, I attended a meeting of defense counsel in Washington, D.C., the purpose of which was to discuss various aspects of trial strategy. I proceeded to explain the defense of duress that I was contemplating presenting on Mr. McCord's behalf. A discussion ensued wherein some of the other defense attorneys reasoned that this "security motivation" would be applicable only to Mr. McCord, in view of his position as Chief of Security for the Committee to Re-Elect the President. In the general discussion that followed, the question arose as to whether or not the CIA could have been involved. It was pointed out by others that all of the individuals apprehended in the Watergate complex had some prior connection with the CIA, that one of the Cuban-Americans had been in possession, at the time of arrest, of what appeared to be CIA-forged documents, and that former CIA agents were always subject to recall. Before the meeting went on to other topics, it was agreed that each lawyer would ask his respective client whether or not he had any knowledge of any CIA involvement. When the meeting ter-

minated, pursuant to prearrangement, I telephoned Mr. McCord and asked him to meet with me and local counsel, Bernard Shankman of Washington, D.C., at the Monocle Restaurant for lunch.

At this time, I had received from the Government pursuant to pre-trial discovery procedure, a statement from a District of Columbia policeman, named Bittenbender, who alleged to have heard Mr. McCord, at the time of the arrest, refer to the Cuban-Americans as "all good former CIA men." In addition, I had received from Mr. McCord various memorandums pertaining to telephone calls made by him to various foreign embassies, relevant to the case, which he believed has been the subject of electronic surveillance. One such memorandum specifically listed the CIA as one of the agencies involved. A copy of this memorandum is annexed to my statement as exhibit C.

[The following information was received for the record:]

EXHIBIT C

In the Omnibus Crime Control Bill of 1968, and the Organized Crime Control Bill of 1970, Congress mandated disclosure, on motion from a defense attorney, of ALL IMPERMISSABLY INTERCEPTED CONVERSATIONS - not just those relevant to a case, or intended to be introduced into evidence. The Senate report on the Omnibus Crime Control Bill of 1968 sets forth clearly that Congressional intent, and the fact that it was incorporated into law as a protection for the defendant.

The impermissably intercepted conversations of McCord's included:

1. A long-distance call from Chile to McCord's office phone in the Spring of 1972.
2. Local calls from McCord's office phone in the Spring of 1972 to the Chilean Military attache's residence and office phone in the Washington area.
3. Calls by McCord from his residence phone to the following Embassies:

September 21, 1972 to the Israeli Embassy 8:35 am from 762-8720

October 10, 1972 to the Chilean Embassy 4:50 pm from 762-8720

4. Agencies involved: FBI, NSA, and CIA

Mr. ALCH. Thus, my subsequent asking of Mr. McCord whether or not there existed, to his knowledge, any factual foundation for CIA involvement was not drawn from whole cloth.

During lunch, which lasted for approximately 45 minutes, I asked Mr. McCord whether, to his knowledge, the CIA was in any way involved with the Watergate venture. He did not directly respond to this specific question, but did become quite upset at what he believed to be the antagonism of the White House against the CIA. He cited the dismissal of Mr. Helms as CIA Director and the appointment of Schlesinger in his place, as an attempted hatchet job by the administration against the CIA.

He did venture his observation that if any CIA officials were subpoenaed that they would not and could not comply with said subpoena. Because of the brevity of the luncheon and because of the obvious need for more detailed pretrial preparation meetings, I asked Mr. McCord to come to Boston in a few days, which he agreed to do.

That evening, I telephonically contacted my senior partner, F. Lee Bailey, Esq., and advised him of my discussion with Mr. McCord at the Monocle Restaurant. Mr. Bailey advised that he did not believe the CIA was involved and that in the absence of any solid proof to the contrary, I was not, under any circumstances, to utilize this defense and should withdraw from the case if Mr. McCord insisted that I do so.

On or about December 26, 1972, Mr. McCord came to Boston and initiated our conversation by stating that the CIA was not involved and that he would have no part of any attempt to involve that agency. Accordingly, Mr. Bailey's instructions to me were rendered moot. Mr. McCord asked that I relay this position to other defense counsel at our next meeting, which I agreed to do and in fact did. I did not, after advising other defense counsel of Mr. McCord's denial of CIA involvement, engage with them in any further conversation of any potential defense involving the CIA. It was I, as a result of the circumstances hereinabove related, who negated further consideration of this potential defense theory.

At no time did I urge Mr. McCord that the so-called CIA defense be utilized, for the defense of duress had already been agreed upon, but I merely asked him whether or not there was, to his knowledge, a factual basis for this contention.

Mr. McCord's allegation that I announced my ability to forge his CIA personnel records with the cooperation of the then acting CIA director, Mr. Schlesinger, is absurd and completely untrue. I have never had the privilege of meeting Mr. Schlesinger, and no such statement was ever made. My local counsel, Attorney Bernard Shankman, who was present at the Monocle Restaurant, can corroborate this and I have been advised he has already done so by submitting a statement to that effect to Senator Ervin's committee.

The remainder of my discussion with Mr. McCord in Boston was devoted to further analysis of the duress defense, the actions of Government witness Alfred Baldwin in disclosing to the press his activities regarding the monitoring of calls from the Democratic National Committee, and other pretrial legal matters. When the meeting ended, I arranged to meet with him in Washington on Wednesday, January 3, 1973, subsequent to me meeting with other defense counsel—at

which meeting I advised them of Mr. McCord's position regarding the CIA.

Between December 26, 1972, and January 3, 1973, I received a letter from Mr. McCord, a copy of which is annexed hereto as exhibit D.

[The following information was received for the record :]

EXHIBIT D

Dear Harold,

The attached is per our discussion.
 Bear with me on matters of this sort - since
 the evidence is strongest against me, & all of
 the defendants, & figure I have to fight about
 5 times as hard as the other to get the case
 thrown out, and in so doing it may help them as
 well.

We both know that Al "galled his guts"
 to Walt Shridan, Larry O'Brien, Jack Anderson, as
 well as the two L. A. Times reporters, regarding the
 contents of the phone calls, which would have logically
 been one of their primary reasons for talking with him.

In countering the motion to dismiss based on
 their own negligence and failure to use adequate legal
 force to prevent unlawful disclosure of the phone call
 contents, the court will say it "admonished" at several

times... They had many other legal measures available to them to stop him from such disclosure, and failed to use them, so they are unquestionably parties to the unlawful disclosure. We knew the problem - they were afraid of the Democrats, plainly and as simple as that.

The prosecution of Al on this disclosure would end in his imprisonment as a just return - it would appear to be de facto evidence of his unavailability as a just return, and it would muddy the water considerably on the case itself.

It would also serve in delaying the case, which ~~is~~ ^{is} not to what the govt wants, but is certainly to our advantage. It also would serve to give the court for determining whether there is prejudice, in way or another, by the judge which would be prejudicial on equal grounds.

A Contempt citation against Al on talking with the press has one implication - the motion to

Dismiss has a totally different implication -

As you can see, I just want to have
no stone unturned in our efforts to get the
case dismissed or otherwise overturned, and the
motion to dismiss & to exclude evidence, re willful
disclosures by Al seem to me to help. It would
seem to put the govt in the same position as
though they were conducting illegal wiretapping
against me - a party to the crime.

I look forward to seeing you Wednesday.

With best regards,

Jim

Mr. ALCH. I submit this document, for it is, to me, totally inconsistent with Mr. McCord's present description of his then existing attitude regarding pressure from me to involve the CIA.

Mr. NEDZI. Mr. Alch, at that point you read that letter into the record.

Mr. ALCH. Yes, sir. This is a handwritten letter from Mr. McCord which is identified or attached to my statement as exhibit D and it reads as follows:

DEAR GERALD: The attached is per our discussion. Bear with me on matters of this sort since the evidence is strongest against me, of all of the defendants, I figure I have to fight about 5 times as hard as the others to get the case thrown out, and in so doing it may help them as well.

We both know that Al "spilled his guts—

Mr. BOB WILSON. Who is Al?

Mr. ALCH. Alfred Baldwin, Mr. Congressman.

Mr. BOB WILSON. Is he one of the defendants?

Mr. ALCH. No, he was one of the Government witnesses in the case. He was the individual who was the actual monitor of the tapped phone calls coming to Howard Johnson Motel from the National Democratic Office.

Mr. BOB WILSON. Thank you.

Mr. ALCH. I believe Mr. McCord was referring to news articles which he had attached to this letter reflecting an interview Mr. Baldwin had given to the Los Angeles Times.

We both know that Al "spilled his guts" to Walt Sheridan, Larry O'Brien, Jack Anderson, or Will or the two L. A. Times reporters, regarding the contents of the phone calls, which would have logically been one of their primary reasons for talking with him.

In countering the motion to dismiss based on their own negligence and failure to use adequate legal force to prevent unlawful disclosure of the phone call contents, the government will say it "admonished" Al several times. They had many other legal measures available to them to stop him from such disclosure, and failed to use them, so they are unquestionably parties to the unlawful disclosure. We know the problem—they were afraid of the Democrats, plainly and as simple as that.

The prosecution of Al on this disclosure would aid in his impeachment as a government witness—it would appear to be de facto evidence of his unreliability as a government witness, and it would muddy the water considerably on the case itself.

It would also serve in delaying the case, which is not what the government wants, but is certainly to our advantage. It would also seem to open the door for determining whether there is prejudice, one way or another, which could be beneficial on appeal perhaps.

A contempt citation against Al on talking with the press has one implication—the motion to dismiss has totally different implication.

As you can see, I just want to leave no stone unturned in our efforts to get the case dismissed or otherwise overturned, and the motion to dismiss and to expedite discovery re willful disclosures by Al seem to me to help. It would seem to put the Government in the same position as though they were conducting illegal wiretapping against us—a party to the crime.

I look forward to seeing you Wednesday.

With best regards,

JIM.

With further regard to this issue, I enclose a copy of my letter to all members of the Select Senate Committee, dated May 28, 1973, reflecting my being administered two polygraph examinations on May 26, 1973, in which one of the test subjects was the allegations of Mr. McCord pertaining to my conduct when the CIA question was discussed. Copies of the responses from various Senators and my further response to Senator Inouye, are also annexed to and made part of exhibit E.

[The following information was received for the record:]

EXHIBIT E

BAILEY, ALCH & GILLIS

ATTORNEYS AT LAW

ONE CENTER PLAZA · BOSTON MASSACHUSETTS 02108

AREA CODE 617 523 6825 TELEY 94-6298

F. LEE BAILEY
 GERALD ALCH
 COLIN W. GILLIS
 JOHN ALBERT JOHNSON
 FREDERICK J. BARNETT M.D., J.D.
 MARIO MISCI
 ————
 MARK J. KADISH (IN T. BAR)
 WILLIAM E. BAILEY
 BERNARD J. O'BRIEN
 JOHN A. DALY
 JAMES MICHAEL MESSFRO
 JOHN R. TRUMAN (MISSOURI BAR)

WILLIAM O. MANNING
 ADMINISTRATOR
 ————
 EUROPEAN OFFICE
 VIA VENETO 146
 ROME, ITALY 00187

May 28, 1973

The Honorable Sam J. Ervin, Jr.
 Room 337 OSOB
 Washington, D. C. 20510

Dear Mr. Chairman:

During my appearance before this Honorable Committee on Thursday, May 24, 1973, Senator Baker asked me if I could suggest any way in which the apparent conflict between my testimony and that of James McCord (re the Monacle Restaurant conversation on December 21, 1972) and between my statement and that of Bernard Fensterwald (the "we're going to get the President" telephone conversation of March 1973), could be resolved. I suggested that witnesses with firsthand knowledge could be called and that the parties in conflict could voluntarily submit to a polygraph test administered by competent examiners.

I believe that Attorney Bernard Shankman has been interviewed by committee counsel and is able to corroborate my statement that I did not offer to alter documents or produce then CIA Director Schlesinger as a compliant witness. Mr. John McNally, who was present at the time of the "get the President" conversation has not been interviewed but remains available.

Because I concur wholeheartedly with Senator Talmadge's observation that deliberate perjury in these proceedings should not be tolerated if the nation is to have confidence in the integrity of what is being done; because Senator Montoya pointed out that, conceivably, I could be biased since my reputation as a lawyer was at stake; because Senator Inouye raised a question as to whether my appearance and testimony could be related to the accusation against Mr. Bailey now pending in Florida; and because I heard Senator Baker's position that any information pointing to where truth might be found should be considered by this committee, including properly administered polygraph tests, I decided, that, having made the suggestion in the first place, I should follow through, even though Mr. McCord and Mr. Fensterwald were hedging.

BAILEY, ALCH & GILLES
ATTORNEYS AT LAW

The Honorable Sam J. Ervin, Jr.
May 28, 1973
Page Two

I therefore asked Mr. Bailey to recommend to me a test which could be expected to carry with it - regardless of result - the highest degree of competence and propriety. As you know, Mr. Bailey has long been acquainted with and active for many of the greatest leaders of the polygraph profession. As a result of these circumstances, Mr. Bailey suggested to me a panel to run two independent tests covering the areas of factual dispute. On May 25 and 26, 1973, tests were conducted of myself, Mr. Bailey, and Mr. McNally. Three different examiners were involved, as follows:

- | | |
|-------------------------|---|
| 1. John E. Reid, L.L.B. | John E. Reid & Associates (myself)
Chicago, Illinois |
| 2. Leonard H. Harrelson | Leonarde Keeler, Inc. (myself and
Chicago, Illinois Mr. McNally) |
| 3. Lynn P. Marcy, B.S. | Marcy Consulting Services (Mr. Bailey)
Dearborn, Michigan |

The additional panel members who participated in phases of the tests other than the actual operation of the instrument were:

- | | |
|-----------------------------|---|
| 1. Robert C. Cummins, B.S. | John E. Reid & Associates
Chicago, Illinois |
| 2. William J. Yankee, Ph.D. | Delta College
University Center, Michigan |
| 3. William E. Barber, Ph.D. | Delta College
University Center, Michigan |
| 4. Ralph N. Severance | Marcy Consulting Services
Dearborn, Michigan |

Among the subjects covered in these examinations were the following:

1. Whether or not I told James McCord that I could alter his CIA records.
2. Whether or not I told James McCord that I could produce the CIA Director, Mr. Schlesinger, as a compliant witness.
3. Whether or not Mr. Bailey directed me not to participate in any defense blaming the CIA for the Watergate incident.

BAILEY, ALCH & GILLES

The Honorable Sam J. Ervin, Jr.
May 28, 1973
Page Three

4. Whether or not Mr. Fensterwald told me that "we are going to get the President".
5. Whether or not Mr. McNally was present when Mr. Fensterwald called and heard me immediately repeat his threat.
6. Whether or not my appearance before the committee was for the purpose of in any way aiding Mr. Bailey.

I believe that the results of these tests should be of interest to anyone searching for the truth in this critical investigation. While I am not attempting to be cryptic about my understanding of the fact that these results establish my truthfulness before this committee as to each of the matters set forth above, I believe that the best evidence of this would be reports to the committee submitted directly by the examiners in such form (written or testimonial) as the committee might prefer, rather than my narrative.

I respectfully suggest that if this committee makes it known that it will not ignore the results of polygraph tests, it can expect a greater reluctance on the part of future witnesses to deviate from the truth.

Very truly yours,


GERALD ALCH

GA:cak

SAM J. EYER, JR., R.C., CHAIRMAN
 HOWARD M. BAKER, JR., TEND., VICE CHAIRMAN
 HERMAN E. TALMADGE, SA. EDWARD J. SURREY, FLA.
 DANIEL K. INOUYE, HAWAII LOWELL P. WICKER, JR., CONN.
 JOSEPH M. MONTOYA, N. MEX.

SAMUEL DASH
 CHIEF COUNSEL AND STAFF DIRECTOR
 FRED D. THOMPSON
 MINORITY COUNSEL
 RUFUS L. SOMMER
 DEPUTY COUNSEL

United States Senate

SELECT COMMITTEE ON
 PRESIDENTIAL CAMPAIGN ACTIVITIES
 (PURSUANT TO S. RES. 4, 90 CONGRESS)
 WASHINGTON, D.C. 20510

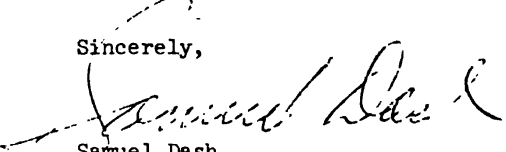
June 4, 1973

Gerald Alch, Esquire
 Bailey, Alch & Gillis
 One Center Plaza
 Boston, Massachusetts 02108

Dear Mr. Alch:

This will acknowledge your letter of May 28, 1973, relative to your appearance before the Select Committee on Presidential Campaign Activities on Thursday, May 24, 1973. I appreciate your taking your time to inform me of the procedure you followed in connection with your polygraph test.

Sincerely,



Samuel Dash
 Chief Counsel

SAM J. ERVIN, JR., N.C., CHAIRMAN
 HOWARD H. BAKER, JR., TENN., VICE CHAIRMAN
 HERMAN E. TALMADGE, GA. EDWARD J. BURNETT, FLA.
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 JOSEPH M. MONTOYA, N. MEX.

SAMUEL DASH
 CHIEF COUNSEL AND STAFF DIRECTOR

FRED D. THOMPSON
 MINORITY COUNSEL
 RUFUS L. EDWINSTEN
 DEPUTY COUNSEL

United States Senate

SELECT COMMITTEE ON
 PRESIDENTIAL CAMPAIGN ACTIVITIES
 (PURSUANT TO S. RES. 8, 90 CONGRESS)

WASHINGTON, D.C. 20510

June 1, 1973

Gerald Alch, Esquire
 Bailey, Alch & Gillis
 One Center Plaza
 Boston, Massachusetts 02108

Dear Mr. Alch:

This is to acknowledge your letter of May 28,
 setting forth information relative to the polygraph test.

I appreciate your keeping me informed.

Sincerely,

Sam J. Ervin, Jr.

Sam J. Ervin, Jr.
 Chairman

JAMES O. EASTLAND, MISS., CHAIRMAN
 JOHN L. MCCLELLAN, ARK.
 SAM J. ERVIN, JR., R.C.
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LAWRENCE M. BAKER
 CHIEF COUNSEL AND STAFF DIRECTOR

United States Senate

COMMITTEE ON THE JUDICIARY
 SUBCOMMITTEE ON CONSTITUTIONAL RIGHTS
 (PURSUANT TO H.R. 1, S. RES. 28, 90 CONGRESS)
 WASHINGTON, D.C. 20510

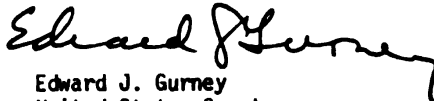
June 1, 1973

Gerald Alch, Esq.
 Bailey, Alch & Gillis
 One Center Plaza
 Boston, Massachusetts 02108

Dear Mr. Alch:

Thank you for sending me a narrative account of your
 polygraph test.

Very truly yours,



Edward J. Gurney
 United States Senator

EJG:amg

HERMAN E. TALMADGE, GA., CHAIRMAN
 JAMES O. EASTLAND, MISS.
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 ROBERT M. HUMPHREY, MINN.
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 DICK CLARK, IOWA
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 ROBERT DOLE, KANS.
 HENRY BELLMON, OKLA.
 JESSE HELMS, N.C.

COTTY M. MOUSER, CHIEF CLERK

United States Senate

COMMITTEE ON
 AGRICULTURE AND FORESTRY
 WASHINGTON, D.C. 20510

June 11, 1973

Mr. Gerald Alch
 Bailey, Alch & Gillis
 Attorneys at Law
 One Center Plaza
 Boston, Massachusetts 02108

Dear Mr. Alch:

Your letter of May 28th, 1973 informing me that you had voluntarily taken a polygraph test on May 25 and 26, 1973 was received with interest. Although I am familiar with neither the examiners nor the panel members who conducted the test, I do find both your appearance before our Select Committee and your subsequent polygraph examination to be sincere manifestations of your obvious desire to respond fully and openly to the allegations against you made by Mr. McCord.

You may be assured that I will make known to the Select Committee the contents of your letter and your suggestions that the results of your polygraph test be submitted to the Select Committee and its staff.

With every good wish, I am

Sincerely,

Herman E. Talmadge

DANIEL K. INOUE
HAWAII

United States Senate

WASHINGTON, D.C. 20510

May 31, 1973

Mr. Gerald Alch
One Center Plaza
Boston, Massachusetts 02108

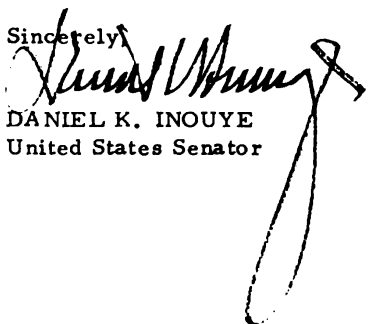
Dear Mr. Alch:

This is to acknowledge receipt of your letter requesting the committee to consider the results of polygraph tests administered to you, Mr. Bailey and Mr. McNally. The committee undoubtedly will be discussing this matter in the near future.

I am aware grave doubts have been raised about the reliability of such tests. Under the circumstances, if the committee were to make use of such tests, I would recommend that they be conducted under circumstances prescribed by the committee and with questions approved by the committee.

Nevertheless, in order to evaluate your request further, it would be helpful to me to have more complete information on the polygraph tests which you have taken. A transcript of the questions and answers for the tests and a statement describing how the questions were prepared would be helpful. I also would like to know the relationship if any of the examiners or panel members who participated in the testing are to your law firm. Although I do not believe this testimony is central to our investigation, I can understand your interest in seeking to remove any doubts which have been raised relative to your testimony.

Sincerely,



DANIEL K. INOUE
United States Senator

DKI:jmo

June 8, 1973

Honorable Daniel K. Inouye
United States Senate
442 Russell Building
Washington, D. C. 20510

Dear Senator Inouye:

This is to acknowledge and thank you for your letter of May 31, 1973. I shall attempt to respond to the matters about which you have inquired.

While it is true that polygraph results may be controversial, I believe that their reliability is becoming fairly well established. Several Federal Courts have made specific findings to this effect in reasoned opinions in 1972. I am specifically referring to U. S. v. Ridling, 350 F. Supp. 90 (D. Mich. 1972); U. S. v. Zieger, 350 F. Supp. 685 (D.D.C. 1972); U. S. v. DeBetham, 348 F. Supp. 1377 (S.D. Cal. 1972).

The examiners who administered the polygraph tests to me on May 25 and 26, 1973, have records reflecting the questions put to me and answers thereto, although I think it would be an overstatement to say that a "transcript", as such, is available.

The polygraph tests consisted of essentially four phases: the pre-test interview, question formulation, test administration, and chart interpretation. The purpose of the pre-test interview, as I understand it, is to afford the examiner all relevant information in order that he may familiarize himself with the factual issues and the examinee. In this case, a number of the examiners involved had seen the actual pertinent testimony given before the Committee, which served to give them a bit of a head start with the matter.

- 2 -

Honorable Daniel K. Inouye
United States Senate

June 8, 1973

All examiners participated in the formulation of appropriate questions, in my absence, and all examiners reviewed the resulting polygrams, except as noted below. The test administration was conducted by Mr. Reid and Mr. Harrelson, each independently at his own facilities. These two examiners did not review each other's charts. Each used his own technique and his own instrument. The questions put to me were ultimately phrased by the examiner running the test with the concurrence of the panel members present.

The subjects covered in these examinations were reflected in my letter to you of May 28, 1973. My answers were that I had not told Mr. McCord that I could alter his C.I.A. records or produce Mr. Schlesinger as a compliant witness, that Mr. Bailey had, in fact, directed me not to participate in any defense blaming the C.I.A. for the Watergate incident, that Mr. Fensterwald did tell me that "We're going after the President of the United States," that Mr. John McNally was present when Mr. Fensterwald called and heard me immediately repeat his remarks, and that my appearance before the Committee was not for the purpose of in any way aiding Mr. Bailey.

The selection of the examiners and panel members who participated was initiated by Mr. Bailey, and his description of his efforts was corroborated by the members themselves when I met them. He called Mr. Harrelson and Mr. Marcy, and told them that he wanted to arrange a test to resolve the factual disputes between Mr. McCord, Mr. Fensterwald and myself. He discussed with them the fact that because of his close association with the polygraph field, great pains should be taken to establish a group of experts such that no attack upon a personal bias basis would be credible. Mr. Marcy then contacted the other panel members, and Mr. Bailey and I did not know until we arrived in Chicago who these men would be.

With regard to the relationship of the participating examiners to my law firm, I state the following:

Mr. Bailey, in the course of his career, has come to know many of the leaders of the polygraph profession. Among these were Mr. Marcy and Mr. Harrelson. Mr. Bailey has taught at the Keeler Polygraph Institute in Chicago on a part-time basis for a period of approximately two years, during which time Mr. Harrelson

- 3 -

Honorable Daniel K. Inouye
United States Senate

June 8, 1973

was President, Mr. Marcy was Chief Staff Instructor, and Dr. Yankee was then teaching a course in psychology. Mr. Harrelson has run many tests for our office during the past thirteen years, but, I am informed, has passed only three subjects prior to myself. Mr. Marcy has also run tests for our office. Dr. Yankee has not. Mr. Reid has been known to Mr. Bailey since 1960, but has not been a close associate. He has testified for Mr. Bailey in the past, but only as a foundation witness as to the general reliability of polygraph tests and their probable impact upon our system of justice in the event of judicial recognition. Mr. Reid has never examined a subject at the request of our office prior to myself. Mr. Barbour, Mr. Cummins and Mr. Severance have met Mr. Bailey only in passing, prior to May 25, 1973, and have never before participated in tests requested by our office.

With the exception of Mr. Harrelson, whom I met while representing a defendant in a murder case in Chicago in April of this year, I had never personally met any of the examiners prior to my being administered the tests.

I have as yet not learned what action, if any, the Committee may desire with respect to obtaining a formal report from the examiners. The panel members have agreed, among themselves, as I understand it, that they will collectively furnish a report to the Committee upon request, and that they will resist individual interview by newsmen until the Committee's wishes are known.

I respectfully take the liberty of raising one additional matter. When you asked me, during my testimony before the Committee, whether my appearance was in any way related to Mr. Bailey's indictment, I answered in the negative and that answer was categorically truthful. I did not offer to expand on the matter because I had been directed by Mr. Bailey not to say anything about his case if it could possibly be avoided, since he had demanded an immediate trial and any publicity generated by our firm which reached the Orlando area could have been used by the prosecutor to seek a postponement.

I am sure that you understand that any firm specializing in criminal law is severely hobbled by a criminal indictment against its principal member, and that we are all anxious to dispose of this matter at once.

Honorable Daniel K. Inouye
United States Senate

June 8, 1973

It would have bothered me not at all had my testimony been adverse to an administration which has indicated my employer, (of which charges I am confident Mr. Bailey shall be vindicated) and I certainly had no thought of currying favor with any one.

I trust this information will be helpful, and I again thank you for your inquiry.

Very truly yours,

GERALD ALCH

GA/pmd

Mr. ALCH. In closing, I respectively refer the attention of this honorable committee to paragraph 6 of Mr. McCord's letter to Chief Judge Sirica, dated March 19, 1973, a copy of which is annexed hereto as exhibit F—

[The following information was received for the record:]

EXHIBIT F

MARCH 19, 1973.

To: Judge Sirica.

Certain questions have been posed to me from your honor through the probation officer, dealing with details of the case, motivations intent and mitigating circumstances.

In endeavoring to respond to these questions, I am whipsawed in a variety of legalities. First, I may be called before a Senate Committee investigating this matter. Secondly, I may be involved in a civil suit, and thirdly there may be a new trial at some future date. Fourthly, the probation officer may be called before the Senate Committee to present testimony regarding what may otherwise be a privileged communication between defendant and Judge, as I understand it; if I answered certain questions to the probation officer, it is possible such answers could become a matter of record in the Senate and therefore available for use in the other proceedings just described. My answers would, it would seem to me, to violate my fifth amendment rights, and possibly my 6th amendment right to counsel and possibly other rights.

On the other hand, to fail to answer your questions may appear to be non-cooperation, and I can therefore expect a much more severe sentence.

There are further considerations which are not to be lightly taken. Several members of my family have expressed fear for my life if I disclose knowledge of the facts in this matter, either publicly for to any government representative. Whereas I do not share their concerns to the same degree, nevertheless, I do believe that retaliatory measures will be taken against me, my family, and my friends should I disclose such facts. Such retaliation could destroy careers, income, and reputations of persons who are innocent of any guilt whatever.

Be that as it may, in the interests of justice, and in the interests of restoring faith in the criminal justice system, which faith has been severely damaged in

this case, I will state the following to you at this time which I hope may be of help to you in meting out justice in this case:

1. There was political pressure applied to the defendants to plead guilty and remain silent.

2. Perjury occurred during the trial in matters highly material to the very structure, orientation, and impact of the government's case, and to the motivation and intent of the defendants.

3. Others involved in the Watergate operation were not identified during the trial, when they could have been by those testifying.

4. The Watergate operation was not a CIA operation. The Cubans may have been misled by others into believing that it was a CIA operation. I know for a fact that it was not.

5. Some statements were unfortunately made by a witness which left the Court with the impression that he stated untruths, or withholding facts of his knowledge, when in fact only honest errors of memory were involved.

6. My motivations were different than those of the others involved, but were not limited to, or simply those offered in my defense during the trial. This is no fault of my attorneys, but of the circumstances under which we had to prepare my defense.

Following sentence, I would appreciate the opportunity to talk with you privately in chambers. Since I cannot feel confident in talking with an FBI agent, in testifying before a Grand Jury whose U.S. Attorneys work for the Department of Justice, or in talking with other government representatives, such a discussion with you would be of assistance to me.

I have not discussed the above with my attorneys as a matter of protection for them.

I give this statement freely and voluntarily, fully realizing that I may be prosecuted for giving a false statement to a Judicial Official, if the statements herein are knowingly untrue. The statements are true and correct to the best of my knowledge and belief.

JAMES M. MCCORD, Jr.

This concludes my statement and I thank this honorable committee for allowing me to present it.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. Briefly, Baldwin was the one who monitored what came from the bug in the headquarters?

Mr. ALCH. Yes, Mr. Congressman.

Mr. BRAY. Have you ever seen what was obtained in that bug?

Mr. ALCH. No, sir.

Mr. BRAY. Do you know anything—have you been told what was discovered?

Mr. ALCH. No, sir. My only knowledge is based upon the testimony of Mr. Baldwin at the trial itself.

Mr. BRAY. I have never seen that testimony. Did you make a statement on what was found?

Mr. ALCH. I believe Mr. Congressman, that at the time when he was about to—there was an intervention by third parties, and filing a motion to prohibit the disclosure of the contents of the monitored calls. Judge Sirica ruled they could be disclosed, and an appeal was taken to the court of appeals during trial, in which they overruled in effect Judge Sirica's order resulting in the nondisclosure of the contents themselves.

Mr. BRAY. Was it appealed further or do you know?

Mr. ALCH. To my knowledge it was not.

The Government may have further appealed it to the U.S. Supreme Court—I'm just not sure on that. I know at the actual trial itself, none of the details of the conversations could be testified to.

Mr. BRAY. Did McCord ever tell you that the CIA was involved as an organization?

Mr. ALCH. In the Watergate venture?

Mr. BRAY. Yes.

Mr. ALCH. No, sir, in fact he told me just the opposite.

Mr. BRAY. That is all.

Mr. NEDZI. Mr. Price.

Mr. MELVIN PRICE. No questions.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. I would like to establish some dates. Counsel may have to help us on these dates.

Is the letter that McCord wrote, evidently to the Director, of July 29, 1972, the first of the mysterious letters that arrived?

Mr. HOGAN. From McCord to the CIA?

Mr. BOB WILSON. Yes.

Mr. HOGAN. Yes.

Mr. BOB WILSON. In other words, talking about the possibility of a CIA—

Mr. HOGAN. You have those before you.

Mr. BOB WILSON. That is the first one.

Mr. HOGAN. July 29, 1972.

Mr. BOB WILSON. When were you first retained by Mr. McCord?

Mr. ALCH. July 1972.

Mr. BOB WILSON. This is July 29, 1972. When?

Mr. ALCH. I'm not sure of the exact date.

Mr. BOB WILSON. Was it the latter part of July?

Mr. ALCH. I believe it was prior to July 29.

Mr. BOB WILSON. When was Mr. Finsterwald employed by Mr. McCord?

Mr. ALCH. To my knowledge, in March—I believe in March of 1973.

My point of reference for that is this: I was in Chicago in a Federal trial before Judge Hoffman, and received a telephone call during that trial, I believe on the weekend I had gone to my in-laws in Orlando. Mr. McCord called me and said because things were breaking so quickly, and I took it he was referring to his appearing in executive session with the Select Senate Committee, and in view of my absence, because of my Chicago trial, and he knew when I got through with that trial I was going to commence a murder trial in Cook County. He asked me whether or not I agreed with him it was a good idea for him to retain local counsel to handle things in my absence. I said I thought it was a good idea. He said do you have any objection to Mr. Finsterwald, whom I had met, but who had not at that time taken any action as counsel. He had only been involved to my knowledge in raising the bail for Mr. McCord. So I said, no, I don't have any objection. And from that point on, as I read the papers in Chicago, I read that Mr. Finsterwald was representing Mr. McCord in his appearances before the Senate committee.

Mr. BOB WILSON. When was the date that Mr. Finsterwald raised the bail for McCord, do you have any idea?

Mr. ALCH. It was in the period immediately preceding or immediately following the conviction, because right after Mr. McCord was convicted, I stood up in open court and asked for a hearing on bail, it was a Friday I recall, and Judge Sirica wouldn't hear it.

Mr. BOB WILSON. What month was that, December?

Mr. ALCH. February—February of this year.

I spent the next 2 weeks doing nothing but trying to raise the bail. And Mr. McCord had told me that to coordinate with his wife who was trying to raise it through friends. At one point shortly at the beginning of this 2-week period after he was incarcerated, he said to me, I want you to call up a lawyer by the name of Finsterwald, who I believe can help with the bail. Now I had never met Mr. Finsterwald at that time. There had been a case in which his associate, a lawyer by the name of Al Olhausen, I believe, had acted as local counsel to a lawyer from our office in a case before Judge Hart, merely as local counsel. The reason that sticks in my mind is because I read in the newspapers that Mr. Finsterwald had told the reporters that his office and mine had worked together to a great degree in the past, which was not a fact, and I called him on it. I said did you make that statement? He said, yes. I said, what is the basis of it? I don't recall any working relationship between your office and mine. He said, well, don't you remember that *Zeiger* case, that was the defendant's name. I said yes, but that did not involve you, it involved your associates, and that was the only isolated incident.

So he was introduced to me as a person who could be helpful in raising the bail. Their men followed a series of several—many—almost daily phone calls by me to Mr. Finsterwald. I was literally a pain in the neck to him, but intentionally so, because Mrs. McCord was not being very successful on the bail problem.

When I first contacted him he said he had friends, without specifying who they were, who were ready to come up with the \$100,000 cash, and things looked good and he expected Mr. McCord to be out of jail within a few days.

The next call, the next day, things were still looking good, but nothing had jelled. The next day, another call—well, these people whoever they were, were unable to come up with the money which he himself personally was going to go down to the bank and borrow \$100,000. The next call he told me the bank had refused him, but said to me, why don't you check with Mrs. McCord and see how much she can come up with and I will try to make the difference. I called up Mrs. McCord. Mrs. McCord said through friends she had been able to come up with \$60,000. I was keeping Mr. McCord abreast of this. I was making periodic visits to the jail. When I told him of this that I was going to go back to Mr. Finsterwald by phone—I never met him—and tell him we were short \$40,000. He said to me, please extend to him my thanks. When I called up Mr. Finsterwald and told him they were short \$40,000—Mr. McCord said that you have much—he said to me I don't see how he can thank me, we have never met. Which struck me as odd, a fellow who never met Mr. McCord was doing all of this for his benefit.

I made no comment because frankly I wasn't particularly concerned where I was going to get the money as long as I got it legitimately. I then learned while I was in Chicago indeed he had complemented the \$60,000 raised by Mrs. McCord with 40 of his own—whether it was his own or from friends I don't know.

Mr. BOB WILSON. He never indicated to you where he got the \$40,000?

Mr. ALCH. No. Except it was either from himself or through friends. The first group of friends that were going to come up with the whole

amount apparently fell through. Then the bank had turned him down. So I just don't know. I was out of town, I don't know.

Mr. BOB WILSON. Do you know whether it was in cash?

Mr. ALCH. I know there was \$100,000 placed in a bank with the deposit book presented to the bonding company as their required security.

Mr. BOB WILSON. To get back to July 1972, right after you were first engaged.

Did Mr. McCord indicate to you that he felt there was a plot against the CIA?

Mr. ALCH. Not at that time.

Mr. BOB WILSON. Did he tell you he was writing to the CIA director at any time?

Mr. ALCH. No, sir, as a matter of fact——

Mr. BOB WILSON. Did he tell you about any of these letters, he was surreptitiously sending?

Mr. ALCH. No, sir. I never knew he wrote any letters to the CIA. The first notice I had was when I read in the paper a report purporting to reflect his testimony before this committee. That was the first information I ever had.

Mr. BOB WILSON. It is rather strange in the two letters or two notes you submitted for the record he had made no reference at all to the allegations about CIA involvement and yet obviously this was on his mind very much.

Mr. ALCH. I agree it is.

Mr. BOB WILSON. Through the letters he was writing.

Mr. ALCH. It appears very strange to me.

Mr. BOB WILSON. You were his counsel and he never brought it up as one of his major concerns that the CIA was going to be the fall guy?

Mr. ALCH. No, sir. The only time he registered that opinion to me was in late December when I met him for lunch after the meeting with the other lawyers I just described.

But up until that time, as my notes reflect, on July 13, exhibit B, he kept almost pushing this defense of duress at me saying this is what I feel was going to get the most mileage for me, and besides it is what my reason actually was. So I wasn't even thinking CIA. The only time CIA came to be mentioned was at this meeting of December 21, 1972. I just wasn't thinking along those lines.

Mr. BOB WILSON. That is all, Mr. Chairman.

Mr. NEDZI. Mr. Alch, can you tell the subcommittee why your statement is so abbreviated from the statement you gave to the Senate committee?

Mr. ALCH. Certainly, Mr. Chairman. When I spoke with Mr. Hogan I offered to submit the entire statement that I had submitted to the select Senate committee, and I stand ready to do so if it is the committee's wish. But I was advised that the inquiry—I think I reflected this in my cover letter—the inquiry of this committee was more narrowly confined to the issues involving any alleged CIA involvement. So I intentionally tailored my statement. But I believe I have a copy of my Select Senate Committee statement and would certainly be delighted to turn it over to you.

Mr. NEDZI. We happen to have a copy of that statement, and went over it yesterday. I can understand your wanting to address yourself

only to matters affecting the CIA, and this may not be significant, however it does create a little different impression right at the start.

You indicate in your statement before us that your office received a telephone call from McCord requesting an appointment. Well, that is a true statement, and the fact of the matter was, as I understand it, he actually wanted to have Mr. Bailey represent him.

Mr. ALCH. When he came in he told me that, yes, sir.

Mr. NEDZI. That doesn't appear in the statement you presented to us.

Mr. ALCH. I can only say, Mr. Chairman, that any omissions in this statement from the ones presented to the Senate committee was in no way to immunize myself or isolate myself to any of the issues raised in that much longer statement.

In my letter to Mr. Hogan on June 27, 1973, I pointed out that in accordance with the focus of the committee's investigation, this statement is considerably shorter in length than the one presented to Senator Ervin's committee and pertains to the allegations of Mr. McCord as they relate to any involvement by the CIA in the *Watergate* case. I believe Mr. Hogan can bear out the fact when I called him on the phone I said to him, "Do you want me to send down the whole statement?" He said, "How long is it, how long did it take you to read it?" I said "About an hour and a half." He said, "That is too long for our purpose. Why don't you just try to limit it to the issues involved in our investigation?" That is what I did.

Mr. NEDZI. Well, at this time you stand on the statement you made to the Senate committee?

Mr. ALCH. Certainly.

Mr. NEDZI. You have no objection to its being incorporated as a statement under oath before this committee?

Mr. ALCH. None whatsoever.

Mr. HOGAN. I might inject, Mr. Chairman, that statement by Mr. Alch is true. I told him I thought that an opening statement of over an hour and a half would be too long.

Mr. NEDZI. I was just unaware of the agreement between counsel and the witness.

Mr. HOGAN. I am sorry.

(See p. 790.)

Mr. NEDZI. Mr. Alch, you said in response to Mr. Wilson's question that you did nothing for 2 weeks but try to raise bail.

Mr. ALCH. Yes.

Mr. NEDZI. What did this involve, your trying to raise bail?

Mr. ALCH. Telephone calls to Mrs. McCord, and to Mr. Finsterwald.

Mr. NEDZI. Over a 2-week period every day?

Mr. ALCH. Just about. I took the liberty of going away with my wife for a 4-day vacation after the trial. Mrs. McCord can verify from Montego Bay, Jamaica, I called her, if not every day of the 4 days certainly every 3 of the 4 days that I was down there, just keeping in telephonic touch with her as to the progress of her efforts to raise the money.

Mr. NEDZI. What was the purpose of that? Were you giving her any counsel as to how she could raise the money?

Mr. ALCH. No, I was asking her how she was coming in her efforts to raise it. Mr. McCord had told me that she was going to go to friends, and I was keeping in touch with her, and saying to her, "How

successful have you been? How much money have you got thus far?" And at the same time I was advising her of what Mr. Finsterwald was telling me.

Mr. NEDZI. Do you think you had to encourage her to get this money?

Mr. ALCH. The question was, or the problem was, my client was in jail.

Mr. NEDZI. Her husband was in jail, too.

Mr. ALCH. Right.

Mr. NEDZI. I doubt very much she needed any incentive to try to do what she can. I just can't understand the extended telephonic conversations, unless you were instructing her to do something.

Mr. ALCH. That is the only thing I instructed her to do, which was to advise me of her efforts. You see—I don't think the mere fact she got the \$100,000 together would have solved the problem.

Mr. NEDZI. Don't you think she would have been on the phone immediately as soon as that \$100,000 came into her possession and control?

Mr. ALCH. No, for this reason, because it was made clear to me from the beginning, Mr. Chairman, she would be unable to raise the entire amount. It was in that connection that I was given the name of Mr. Finsterwald to go to. So I was more or less acting as the coordinator between her effort and Mr. Finsterwald's effort, based upon one common denominator, and that is trying to get Mr. McCord released on bail as quickly as possible.

Mr. NEDZI. Did Mr. McCord ever tell you how Mr. Finsterwald was going to get this money?

Mr. ALCH. No, sir.

Mr. NEDZI. Did you ever ask?

Mr. ALCH. I asked who he was. I think I asked Mrs. McCord—after Mr. Finsterwald had on the phone made that remark to me "How can Mr. McCord thank a fellow who he had never met"—I asked Mrs. McCord who is he? The reply to me, as I recall, was, in substance, he was a man who was introduced to us as someone who wants to help. I asked Mr. Finsterwald at one point in time what his reason was, and he said to me that he was outraged at the excessive amount of bail set by Judge Sirica.

Mr. NEDZI. Were you satisfied with that response that it was a truthful one?

Mr. ALCH. Frankly, Mr. Chairman, that wasn't my main concern. I wasn't about to look a gift horse in the mouth.

He had been introduced to me, or he had been put into contact with me by my client. If he wanted to help, as long as nothing illegal in his activities came to my attention—

Mr. NEDZI. How did you know whether they were legal or not?

Mr. ALCH. All I know is if a man borrows money or borrows money from friends, which was one of the two ways he has told me he was getting the money, that did not suggest to me of anything improper.

Mr. NEDZI. Then you believed him?

Mr. ALCH. I accepted what he said without further comment, because, frankly, that was not my primary regard at that moment. My primary regard was to get my man out of jail.

Mr. NEDZI. Legally?

Mr. ALCH. Of course.

Mr. NEDZI. You couldn't know whether it was legal unless you probed with Mr. Finsterwald, could you?

Mr. ALCH. I accepted his representation to me that he was either going to borrow it himself or get it from friends of his.

Mr. NEDZI. So you believed him. If you didn't believe him you would have pursued it further, I assume.

Mr. ALCH. Mr. Chairman, I say I believed him. On looking back on it now, I must have. But my point is at the time he said it to me I didn't stop and say to myself, do I believe him or not? It just didn't go through my mind that way.

Mr. NEDZI. Mr. Alch, you made reference to Mr. McCord constantly pushing the defense of "duress."

Mr. ALCH. Yes, sir.

Mr. NEDZI. Did he understand what that defense was?

Mr. ALCH. He certainly did. I explained it to him numerous times. And as exhibit B, the cover letter, demonstrates, he was almost——

Mr. NEDZI. Would you explain it to this committee?

Mr. ALCH. Yes, sir. I have with me—I only have one copy, but I will be happy to make it available to the committee. It is a memorandum of law which, pursuant to Judge Sirica's request, I filed during the trial because at one point of my cross-examination Judge Sirica called me to the bench and said "Where are you going with your questions? What is your defense?" And I told him it was this "duress" theory. And he said, "I have never heard of it." I said, "Well, I will have a memorandum of law before Your Honor tomorrow morning." So I spent that night drawing up this memorandum of law. As the trial record reflects, he ultimately ruled it out as a matter of law, thus disallowing me from presenting evidence in support of and arguing it to the jury.

Mr. NEDZI. Wasn't his decision rendered in very peremptory fashion?

Mr. ALCH. I thought so.

Mr. NEDZI. Didn't he use some rather strong language in describing that kind of defense?

Mr. ALCH. I believe he called it ridiculous.

Mr. NEDZI. I am compelled to share his judgment in that respect.

Mr. ALCH. Well, I will certainly agree, Mr. Chairman, it wasn't the most salable defense imaginable, but under the circumstances, operating under my conviction unless a defense is completely frivolous to the point of being contemptuous of the court, I will run with it, especially when it is what my client said was reason for doing what he did.

Mr. BOB WILSON. Pardon me.

In the letter to you he doesn't refer to "duress," he has his own special theories of his own defense. He wasn't the one suggesting duress, you are the one suggesting duress to him; isn't that right?

Mr. ALCH. That is right. But for this reason, Mr. Congressman: I explained to him his theory as he labeled it defense of others could never get off the ground, because that theory said the perpetrator must not know he was breaking the law.

Mr. BOB WILSON. But you just told the chairman that he was constantly selling you on the idea of "duress." You are the one that sold him on duress.

Mr. NEDZI. He told you that in response to your question in the first instance. I just followed up on it.

Mr. ALCH. Let me say it this way: He came to me with a legal theory, as reflected in that letter and the memorandum that he sent me, which he labeled as "duress."

I did research on it, and came back to him and said, "Your motivation for going in there is more properly embraced by what we call 'duress.'" And he said, "What is the difference between duress and protection of others?" I said, "One key difference. The theory of duress allows for the defendant to know he was breaking the law. You can't get up on the stand and say you didn't know you were breaking the law, they would laugh at you." He said, "Fine." It was more or less a lawyer's change of label.

Mr. BOB WILSON. What he thought was duress was not really duress?

Mr. ALCH. What he thought was defense of others was less workable than my changing it to the related defenses.

Mr. BRAY. Mr. Chairman.

Did he first use the word "duress" or did he tell you, that the law arrived at the word "duress"?

Mr. ALCH. That is right, Congressman.

Mr. BRAY. I am interested in that, having been in quite a few criminal cases myself. I would like to have a copy of that to read.

Mr. ALCH. The classic example, Mr. Congressman, is if gangsters have a gun at your wife's head and say to you, "Unless you help us rob the bank, we are going to kill your wife," so you break the law to prevent the greater evil.

Mr. BRAY. I never heard that word used, I can well understand it.

Mr. ALCH. In the memorandum there are legal authorities labeling it as "duress."

Mr. BRAY. There probably would be. Then the fact that the court said it was ridiculous sometimes causes the jury to believe it is ridiculous. In a personal illustration, in a case in Indiana, the jury and the judge in the law of evidence which is not true—and one time the jury came in with a verdict "not guilty," the judge turned to them and said, "I think it was a silly and stupid defense, but it worked." I think, after all, the duty is to defend your client with the best ability you have. I appreciate that deeply.

I can see how the difficulty would be that the remoteness between the two, I can see a problem, but I can't see the justification. I never thought of the word "duress," but it is rather interesting. Getting the answer is not germane to this case, but just as a curiosity as a lawyer—

Mr. ALCH. When Judge Sirica ruled it out I made an offer of proof and said what Mr. McCord would have said if he had been allowed to testify in support of that theory. Once that was ruled out as a matter of law, I had practically nothing to work with. My final argument was based on just a general lack of criminal intent which was for all practical purposes just almost totally lacking in legal merit, but it was all I had left.

Mr. BRAY. Lack of knowledge of law is not a defense in a felony case. It can be at times, although lack of knowledge is not advanced, the fact of not knowing the law is not a defense. The matter of lack of knowledge of legality can nullify an intent if necessary.

Mr. ALCH. When you call it statutory specific intent, yes, sir.

Mr. BOB WILSON. I don't think I want you to defend me.

Mr. NEDZI. Mr. Alch, McCord came to you for the first time in the middle part or latter part of July.

Mr. ALCH. Yes, Mr. Chairman.

Mr. NEDZI. Would you relate to this subcommittee the substance, as best you can recall, of that conversation?

Mr. ALCH. Yes, sir.

He introduced himself as one of the men who had been caught in the Watergate and wanted to know if Mr. Bailey would represent him. I had advised Mr. Bailey that McCord, who was one of the five caught at the Watergate, was coming in, and usually when I interview prospective clients I say to Mr. Bailey, "Are you interested in the case?" If I think it is a case we should take, then I am the one that sets the fee, so much for his services personally, so much for my services. He said he wasn't interested in it. When Mr. McCord came in and asked for Mr. Bailey, I chatted with him cordially. We chatted. He said, "Are you available, would you be willing to represent me?" I said, "Yes." I said, "What were you doing in there?" And that is when he began telling me about his apprehension and concern for these radical demonstrations leading to violence against the members of the committee, and said to me, "Look, I know I was breaking the law, I took a calculated risk, and I am prepared to face the consequences, but I am telling you why I did it, and I think I am entitled to a defense." I said, "All right." I quoted him a fee. He agreed to it, and I was retained. That was the first conversation I ever had with him.

Mr. NEDZI. Did you indicate to him that he had a defense of any kind?

Mr. ALCH. When he said to me, when I asked him what his motivations were and he told me just what I told you, I said, "I will do a little research and see whether or not I can find some presentable legal theory to embrace that," because I told him you can't deny you were there, you were caught there. The question is why you were there, and the reasons you were there is something I can run with.

Mr. NEDZI. How much time did you spend with him during the first interview?

Mr. ALCH. Perhaps an hour, maybe less.

Mr. BOB WILSON. Did he ever state he had another attorney at that time, or were you the only attorney up until the end of that year that McCord had?

Mr. ALCH. That is right. The first time I ever learned about another attorney was in March of this year, except for local counsel, Mr. Congressman, whom I retained.

Mr. BOB WILSON. Why did he say in his letter to Mr. Helms of July 29, "This is a copy of the letter which went to my lawyer," and you say you never saw him.

Mr. NEDZI. That is him.

Mr. ALCH. I honestly don't know. I have never seen that letter. If that is what he says, if he is referring to me.

Mr. BOB WILSON. He said from time to time I will send along things you may be interested in. This is a copy of the letter which went to

my lawyer. That is when he tells about the attempts to involve the CIA.

In other words, this is his whole point in the letter that he says he sent to his lawyer. It involves the CIA.

Mr. ALCH. Congressman, I have absolutely no recollection of ever receiving this. As a matter of fact, I had occasion to go through my files, my whole package, because Judge Sirica ordered me to turn over legal documents to Mr. Finsterwald, and discovery material back to the Government. I never came across that letter.

Mr. BOB WILSON. Am I not correct that Mr. Helms testified when he received the letter the name to whom it was addressed had been deleted from it as it appears on our record?

Mr. HOGAN. Yes.

Mr. BOB WILSON. Those are strange circumstances.

Mr. ALCH. I never got the letter.

Mr. BOB WILSON. He says he sent it to you, and it contains a well-thought-out motivation of protecting the CIA, and so forth, and yet you never got it.

Mr. ALCH. I did not.

Mr. NEDZI. Mr. Alch, you spent an hour with Mr. McCord reviewing the circumstances. You found that that was a sufficient length of time in order to get all the necessary details in order to go back and research the law?

Mr. ALCH. That is not accurate, Mr. Chairman.

I found it a sufficient amount of time to do two things: No. 1, deciding whether or not I would be willing to represent him. No. 2, to quote him a fee. No. 3, to get enough of a general picture of the thing to at least start putting it together. We have a policy in our office of really not getting down to allocating substantial periods of time until we get at least part of our fee. And no money was passed to me. I started working on it, but I didn't really set everything aside. It was sort of a breaking of the ice thing. OK, I will be seeing more of you. I will be in touch with you, et cetera, et cetera.

Mr. NEDZI. What was the fee?

Mr. ALCH. \$25,000.

Mr. NEDZI. On what terms?

Mr. ALCH. I have a letter with me, I think, in which I acknowledged the receipt of the first amount.

We worked out a payment schedule—here it is—if you would like to make a copy of it. This is all I have. It is dated July 7, a letter to him acknowledging receipt of \$8,000—

Mr. NEDZI. July 7, 1972?

Mr. ALCH. 1972.

Mr. NEDZI. That suggested he came to see you prior to that day.

Mr. ALCH. Yes, it would.

It reflects that the total fee is \$25,000. The agreement that we entered into.

Mr. NEDZI. Why don't you just read the letter?

Mr. ALCH. All right. This is dated July 7, 1972.

DEAR JIM: This letter is to acknowledge receipt from you of \$8,000 on July 6, 1972. We have agreed upon the following with regard to my representing you in the burglary second degree charge presently pending in the Washington, D.C., Superior Court.

If I might digress, it was phrased that way because at that time that was the only charge in existence. He had not been before the grand jury. The Federal indictment had not come down although it was anticipated.

The total fee is \$25,000.

2. \$7,000 is to be paid on or before July 20, 1972.

3. An additional \$10,000 representing payment in full shall be paid on or before August 20, 1972.

4. In addition, the sum of \$1,500 representing retainer for attorney for Bernard Shankman shall be paid on or before August 1972.

It was a pleasure representing you these last 2 days in Washington—that must be in reference to my probable-cause hearing in the superior court on the burglary charge—

and I can assure you of my best efforts on your behalf." Please don't hesitate to call me at any time at my office or at home with regard to this case or related matters.

"Very truly yours, Gerald Alch."

This was the fee schedule he said he could live with. As it turned out, he did not adhere to this, which didn't cause any serious breach in our relationship, except I was from time to time saying "When do you think you are going to be able to come up with the money? You are not adhering to what we agreed upon, and we do have a rule I get paid in full before the trial actually commences." And I was paid in full by the time the trial began, but not in conformance with these agreed-upon terms. But I didn't make that much of an issue of it. He said "I don't have it, I need more time." I said "You have more time."

Mr. NEDZI. How soon after he was in your office did you represent him at the first hearing?

Mr. ALCH. I don't know, except my recollection, according to my statement—and it was my recollection—it was in July. It could be, this is July 6, I was in Washington. It may have been the very first day or two of July, in which I agreed to—

Mr. NEDZI. You make references to the past 2 days.

Mr. ALCH. That is right. These last 2 days in Washington, which was to the best of my recollection the probable-cause hearing, or it may have been at the appearance before the grand jury. I just don't know.

Mr. HOGAN. I have a calendar.

Mr. NEDZI. I wonder if there is any possibility you were first retained in June?

Mr. ALCH. Well, my recollection is July, but this puts activity in the first week of July, so it may have been. I honestly don't recall.

I was using this letter, or the receipt of the money, as the starting point for when I heard from him. If it was in June, I am sure it was toward the very end of the month. I don't have a clear recollection of it.

Mr. BOB WILSON. Did he write you out a check at the time when you were first retained?

Mr. ALCH. No, in cash. The only time he paid me other than in cash was the last two payments of \$1,750 were in bank checks. Otherwise it was cash.

Mr. NEDZI. You had this interview with him.

When did you first discuss retaining Mr. Shankman?

Mr. ALCH. At the first meeting.

Mr. NEDZI. At the first meeting?

Mr. ALCH. Yes, sir. I told him I would have to have local counsel, that is the rule. I said "Do you want to get him or should I get him?" He said "You get him." I don't know what his entire fee is going to be, I said, I will be the work horse, I will be doing most of the work, but I think it is reasonable to anticipate he will want a retainer. We agreed upon a retainer of \$1,500.

Mr. NEDZI. At the first meeting?

Mr. ALCH. At the first meeting with Mr. McCord. What I did was, because he told me he was short of cash, or at least strained a little, I took the \$1,500 out of the first \$8,000 that he gave me, and then he paid it up at the end.

I might add, in that regard, Mr. Shankman worked, he was with me all through the trial, his work greatly exceeded \$1,500. He presented bills to our office which I, in turn, presented to Mr. McCord, and Mr. McCord said he didn't have the money. So we paid Mr. Shankman, I believe, between \$4,000 and \$5,000 in addition to the \$1,500 that we had received from Mr. McCord. That \$4,000 or \$5,000 came out of the \$25,000, and expenses which were supposed to have been paid by Mr. McCord have not been.

Mr. BOB WILSON. Then this might point out that there was another attorney in the case at the time. Could the letter directed to Mr. Helms have gone to Mr. Shankman?

Mr. ALCH. I doubt it because every time Mr. Shankman received anything from Mr. McCord I didn't, which would have been unusual in itself, he would immediately forward me a copy.

Mr. NEDZI. Have you worked with Mr. Shankman on cases?

Mr. ALCH. I hadn't, but other members of my firm had. This was my first experience working with him, and he is a terrific lawyer. He is a real nice guy.

Mr. NEDZI. But your firm has had extensive dealings with Mr. Shankman?

Mr. ALCH. Yes, sir. I don't know how extensive, but certainly they worked with him in the past on more than three or four occasions.

Mr. NEDZI. If you were to need local counsel in a case tomorrow, would you go back to Mr. Shankman?

Mr. ALCH. I would. I don't know what his response would be as a result of this episode.

Mr. NEDZI. Does your firm have other local counsel here in Washington?

Mr. ALCH. The only other local counsel I can ever recall in Washington was Mr. Finsterwald's associate, Mr. Olhausen in a case in which we came in after conviction, but Judge Hart reversed it.

Mr. Olhausen was in the case at the time the defendant came to us. It wasn't our choosing Mr. Olhausen. When I thought to myself who am I going to get to act as local counsel, Barney Shankman's name came, because I knew he worked with our office on other cases. I think he helped us out in the professional traffic control matter. This is the first time I had the privilege of working with him.

Mr. NEDZI. You are not aware of any other attorneys that worked with your office in Washington?

Mr. ALCH. Not with any degree of regularity. There may have been isolated instances, but I don't know.

Mr. BRAY. Mr. Chairman.

The letter there which defendant said he sent to his lawyer impresses me as not being a letter a person would send to his lawyer. It would arouse immediate question on the part of the lawyer, whether you or your cocounsel. It impresses me it is difficult to understand he ever sent that letter.

Mr. ALCH. It is difficult for me to understand.

You see the only time the CIA ever came up in our discussion was when I had gone to Washington on December 21, and in the course of the meeting I said "By the way, gentlemen, here is my defense of Mr. McCord." And I described duress. Their immediate reaction was, well, this helps your client but doesn't help mine, because our clients can't embrace that. Mr. McCord can because he was head of security. That was when the question was raised, is CIA involved in this?

Mr. BRAY. You have read the other letters of McCord, the unsigned letters which he wrote?

Mr. ALCH. I have not—you mean the ones to the CIA?

Mr. BRAY. Yes.

Mr. ALCH. I have never seen them.

Mr. BRAY. Oh, I see.

Mr. BOB WILSON. Did he ask you, or did you discuss with him at any time what he calls the false testimony of Jerry Bittenbender, to the effect that he was—

Mr. ALCH. In this sense, when I told him I had received from the Government as part of my discovery this statement by Bittenbender saying McCord said at the jail when he was being booked, referring to the Cuban-Americans, they are all former CIA men. He said to me Bittenbender is lying, I never said that.

Mr. NEDZI. Are you through, Mr. Wilson?

Mr. BOB WILSON. Yes.

Mr. NEDZI. Mr. Alch, did you say that you had appeared at a hearing for Mr. McCord prior to the sending of that receipt for the \$8,000?

Mr. ALCH. I know I appeared for him at a probable-cause hearing on the Superior Court, District of Columbia, charge. I don't remember the date. I have it at the office. I suppose I have the transcript there. But I don't know whether or not that letter in which I say it was a pleasure representing you these last 2 days in Washington—whether or not that refers to the probable-cause hearing—I think was before Judge Belton, or my appearing with him, his wife, and his daughter before the grand jury. I just don't recall.

Mr. NEDZI. Did you have any other meetings with him after your first meeting prior to attending these hearings?

Mr. ALCH. To the best of my recollection, and I may be wrong—but to the best of my recollection, I think the next time I saw him was in Washington, when I came for the probable-cause hearings.

I am pretty sure that probable-cause hearing was the first thing I ever did for him as far as not just talking about the case in the office.

And then after that, I went to the grand jury.

Mr. NEDZI. Had you talked with him before you went to the grand jury, subsequent to the first time?

Mr. ALCH. To the grand jury?

Mr. NEDZI. Yes.

Mr. ALCH. Yes. When he notified me he had been served with a subpoena.

Mr. NEDZI. Let's just see how many meetings you had with him. You had the one meeting in early July, obviously.

Mr. ALCH. Yes, sir.

Mr. NEDZI. When was your next meeting with him?

Mr. ALCH. To the best of my recollection, and it is only a recollection, I may be wrong—is when I went to Washington.

Mr. NEDZI. Do you have any records?

Mr. ALCH. Not with me, but it is easily ascertainable because I have a transcript of the probable-cause hearing in the superior court.

Mr. NEDZI. Please proceed.

Mr. ALCH. And then I believe the next—

Mr. NEDZI. At that time you just met with him for the purpose of going to the probable-cause hearings?

Mr. ALCH. When I came into Washington it was for that purpose, yes, sir.

Mr. NEDZI. You had no meeting in your office prior to going to that hearing?

Mr. ALCH. I don't believe so. I don't believe so.

Because he may have said to me at that very first meeting there was a probable-cause hearing coming up, or he may have notified me by telephone of the specific date, I don't recall.

Mr. NEDZI. Did Mr. Shankman join you at that hearing?

Mr. ALCH. Yes, sir.

Mr. NEDZI. Did Mr. Shankman participate in the hearing in any way?

Mr. ALCH. No, sir, other than to introduce me to the court and ask my admission.

Mr. NEDZI. So then there was a probable-cause hearing. Following that, when did you meet with him?

Mr. ALCH. The exact date I don't know. But my recollection is the next activity I performed for him was when he received two subpoenas from the grand jury, one in his individual capacity, and one as keeper of the records of the books of McCord Associates. And I went with him to Washington, or I met him in Washington, and advised the prosecutor he was going to take the fifth on his personal subpoena, and then I had some discussion with the prosecution with regard to what he could be obliged to say and what he couldn't be obliged to say pertaining to the subpoena directed to him as keeper of the records.

Mr. NEDZI. Can you give us a time on that, generally speaking?

Mr. ALCH. Perhaps in late July. I just don't know. Again, it is ascertainable, but I just don't recall.

Mr. NEDZI. Following that, when did you meet with him?

Mr. ALCH. I believe following that it was when I came to Washington again to represent his wife and daughter who had also been subpoenaed to testify before the grand jury. He was there with them, although he was not before the grand jury on that particular occasion.

Mr. NEDZI. How long was that after you represented him before the grand jury?

Mr. ALCH. I am guessing—maybe 2 or 3 weeks. I am just not sure. It is a matter of record, but I just don't know.

Mr. NEDZI. Could it possibly or probably be late August?

Mr. ALCH. It may have been earlier, Mr. Chairman. It may have been earlier, because the Federal grand jury activity really got rolling after the probable-cause hearing. All the other defendants had waived their probable-cause hearing. I attempted to utilize it as best I could for discovery purposes.

Mr. NEDZI. The next time you met with him was when?

Mr. ALCH. I can't be sure. I cannot be sure.

I could only say that there was in the ensuing months periodic contacts, either by phone, or by my seeing him. I remember at the time of arraignment I was engaged in trial and I sent my associate, Mr. John Albert Johnson, down.

Mr. NEDZI. For what purpose?

Mr. ALCH. To represent him at the arraignment.

Mr. NEDZI. At the arraignment?

Mr. ALCH. Yes, sir. After that I believe I attended an open court session pertaining to pretrial motion, which I had filed, and there was a day or two set aside for argument.

Now, in between this period of time, I simply am unable to specify the dates of my contacts with him, and whether these contacts were by telephone or in person. I just don't recall. But I kept in touch with him one way or the other.

Mr. NEDZI. Do you have records of these telephone conversations?

Mr. ALCH. I don't. The only thing that might help me is airline tickets which I will be happy to peruse. But I don't have them at today's hearing.

Mr. NEDZI. When was the first time, Mr. Alch, that you sat down with James McCord and went over his every activity in connection with this crime? It seems to me a good lawyer would and should.

Mr. ALCH. I think it was a more or less of a continuing type of discussion, beginning with that first meeting when he explained to me his motivation, because that set me on a potential defense course—defense posture. And at the meeting in Boston of December 26, I began, by this time I had narrowed it down, and could be most specific as to what his anticipated testimony would be.

Mr. NEDZI. When was this?

Mr. ALCH. December 26.

Mr. NEDZI. December 26?

Mr. ALCH. I remember that because the purpose of that was to prepare him for his testimony because at that time we were assuming that we would be able to go all the way on this theory of duress, and naturally we could not even hope to be successful without his testimony. And he wanted to take the stand and tell the jury what he told me.

Mr. NEDZI. In reviewing your statement to the Senate, I was puzzled that you didn't earlier spend more time with Mr. McCord and really delve into all facets of this before you came up with any theories. That is the way I used to practice law. Maybe that is why I wasn't earning the fees I hear announced in these cases. But at any rate, it strikes me as extremely unusual that this kind of in-depth review would not take place until 6 months after retention.

Mr. ALCH. Well, Mr. Chairman, I am not saying that there weren't—that we never discussed what was going to happen at trial. What I am suggesting is this: This was not—

Mr. NEDZI. I am not saying you didn't, either.

Mr. ALCH. No.

Mr. NEDZI. But what I am saying is you didn't spend any real time with him. You attended hearings of all kinds. The first meeting was essentially to determine how much you were going to get paid, and outline a rather unusual defense, it seems to me, that even the judge termed ridiculous. Is there any explanation for that? Is that ordinary procedure in these cases?

Mr. ALCH. I don't think you can say anything is an ordinary procedure in a criminal case. Every one I handled is completely distinguishable on its own facts, not only factualwise as far as the case is concerned, but the client-attorney relationship. You have got to remember, Mr. Chairman, keep it in this context—he came to me; I was faced with a man who had been apprehended in a building. This was not Liddy and Hunt, in which there was a question of identification. He had been arrested in the building. I said, "Why were you in there?" He told me. In subsequent passage of time I would get from him memorandums backing up this theory of duress. I would get from him practically three or four times a week copies of newspaper articles from all over the country describing demonstrations by antiwar groups leading to violence. So from the very beginning, supplemented by his doing his own little legal drafting of memorandums, further supplemented by his constantly sending to me these newspaper articles, it was simply a question of my, as a lawyer, polishing up and getting into sight what our ultimate defense at trial would be. At the same time I was going through the workings of the pretrial motion.

Mr. NEDZI. How could you determine what your defense at trial was going to be if you didn't know the details of the actions of your client?

Mr. ALCH. But I did know them. He told me.

Mr. NEDZI. You told me you didn't go into details with him. You hadn't indicated a single conversation in depth with him as to where he was, who else was involved, what transpired, and all the things that an attorney does in preparing for a case.

Mr. ALCH. He always, in his discussions with me, up until a point at trial, more or less isolated himself from his codefendants.

Mr. NEDZI. I understand that, and I understand his idea about a defense, but it seems to me that you as his counsel, as the educated legal type in this situation, had an obligation to go into the thing in depth and suggest to him as to whether this is the best possible course.

Let me go into another phase of this.

During this time you say that it wasn't until the latter part of December when you really got intense about preparation.

Mr. ALCH. If I may respectfully submit, if I said that, I didn't mean that. I don't think I said that.

Mr. NEDZI. That wasn't the word you used, but that is the impression I got.

Mr. ALCH. What I am saying is that naturally as the trial date approaches your activity with regard to that particular case becomes more intense because in the months prior to trial I am in trial with other cases. This doesn't mean I am ignoring the McCord case, but I am not really pushing everything else aside until we are getting down to the trial date. That is the only way I can operate. I am almost going from trial to trial.

Mr. NEDZI. That is the way most successful lawyers operate.

Mr. ALCH. Well, I don't know if I earn that description.

Mr. NEDZI. Let me get back to conversations with the prosecution at this time.

Were there any conversations between yourself and the prosecution?

Mr. ALCH. Prior to trial, Mr. Chairman?

Mr. NEDZI. Yes.

Mr. ALCH. Yes, sir.

Mr. NEDZI. What was the substance of those conversations?

Mr. ALCH. Aside from just cordial discussions, I mean we had many discussions when I was going before the grand jury, but discussions of consequence—I think at one point, I don't remember whether it was October or November, it is in my statement to Senator Ervin's committee, they began plea bargaining, that is what I would call it, whether they would describe it like that, I don't know. What they said was, "We would be willing to talk about it as a general proposition, nothing specific. We would be willing to talk about allowing your man to plead to one substantive count in return for his testifying for the Government."

Naturally I said to them, "Well, what would be your recommendation in the event he did that to the court with regard to disposition?" Everything was always subject to the court's approval anyway. And they said, "We point out his cooperation." I said, "Could you recommend any type of suspended sentence?" They said, "Absolutely not." So the conversation didn't proceed in any greater detail because they more or less said to me, "See if your man is interested." So I went back to McCord, asked him if he was, describing to him just as I described it to you, and he said he was not.

There was a second conversation with regard to plea bargaining the latter part of the year. I think it is November. I will rely on my statement to the Senate Committee—in which they toughened their position, and they said their case had grown considerably stronger, and they said they would still be willing to accept a plea to lessen the indictment, but they were talking about three counts, instead of one count.

And again, with the same rather limited recommendation to the judge, we are just going to point out he is cooperating, and leave it up to the judge, was again turned down by Mr. McCord.

The last time any proposition was put forward to Mr. McCord regarding deviating from his defense of "not guilty" was during the trial itself when Judge Sirica called counsel into his chambers, and I don't know whether or not you have access to that, it was a sealed transcript, I got into a little difficulty with the judge when I made it a part of my motion for a new trial on my appeal. I got from the bench, reprimand from him, for not getting permission first to unseal the record. But as a result of my one conversation with Judge Sirica, Judge Sirica said it is not too late to go before the grand jury. There was nothing threatened, there was nothing promised, but that was the message. And he turned that down.

Mr. NEDZI. I believe what you say, he turned it down. But did you make any recommendation to him?

Mr. ALCH. I was primarily concerned with——

Mr. NEDZI. I think you know what I am thinking about.

Mr. ALCH. Sure.

Mr. NEDZI. Here we have the case of a man who is guilty as sin, who admits it. The only defense that you have is one that in the final analysis the judge termed "ridiculous." Don't you try to do what you can to get out of it as best you can for your client?

Mr. ALCH. Certainly.

Mr. NEDZI. Isn't that an obligation on the part of the attorney to do that?

Mr. ALCH. It certainly is, Mr. Chairman. I most certainly admit I wished I had been able to come back to Mr. McCord with something more concrete than just a promise of cooperation. Under the terms of it, when I said to him, "I am afraid any recommendation they made to the judge would not be that you be allowed to stay on the street and remain at liberty," I might very well have said to him, "Now keep in mind that this theory of duress" which I made no secret to him was a very, very flimsy thing at best, but the only thing I could think of based upon what he had told me, and he said, "I am not interested."

In that regard I recall Mr. McCord testifying before Senator Ervin's committee that the timing of his disclosures was entirely his own. That is, I believe, correct.

Mr. BOB WILSON. Mr. Chairman, I probably have limited time for this witness, but I am really disturbed about this matter of the letter that was sent to Mr. Helms which said, "We are trying to find out CIA involvement here." I would like to rise to the witness' defense when he says he didn't get a copy of the letter, because I think it would be rather an unusual letter to have sent him after McCord had already sent him on the 21st of July this memorandum which almost duplicates what he says about the prejudicial press coverage, the high percent of registered Democrat voters, that was the memorandum where he was telling his attorney the reasons for any special defenses he might be able to put together. And also in this letter that is purported to have gone to Mr. Alch, he says the matter of timing of the change of any motion I realize is best left in the hands of the lawyers. In other words, on the face of it, this letter wasn't sent to a lawyer, it was sent to someone else, or maybe it wasn't sent at all. I am just trying to figure this was just a self-serving thing to go to him.

Mr. NEDZI. Check the morning mail.

Mr. BOB WILSON. I am just a little bit disturbed because Mr. McCord I don't think is leveling with Mr. Helms in this letter, or else he had another lawyer that might have been giving a different type of defense. The letter he says went to his lawyer talks only about the CIA and CIA involvement, and yet Mr. Alch said this was never an issue, it never came up as any concern as far as Mr. McCord is concerned. I am really disturbed about it.

Mr. NEDZI. Mr. Wilson, which letter are you referring to now? Do you have a date on it?

Mr. BOB WILSON. July 29, 1972, letter that went to Mr. Helms on which the name of the person to whom it was addressed had been removed and it went to Helms.

And it says on the memo that attaches it, "From time to time I will send things that may be interesting, and this is a copy of a letter which went to my lawyer."

I don't know whether we ought to get Mr. McCord back and try to get him to clarify this point.

Mr. NEDZI. Let us go back and review Mr. Alch's knowledge about the CIA in this whole matter.

Did Mr. McCord at any time ask you to see Mr. Paul O'Brien?

Mr. ALCH. Yes, sir.

Mr. NEDZI. When did he ask you to do that?

Mr. ALCH. On one of my first trips to Washington he described Mr. O'Brien to me as the counterpart to Edward Bennett Williams to the Democratic Party. And he specifically described him to me as counsel to his employer, the Committee to Re-Elect the President. He said "I want you to go to his office, tell him that you represent me, and maintain communications with him, establish and maintain communication with him." He drove me to Mr. O'Brien's office and then went—

Mr. NEDZI. When did this take place?

Mr. ALCH. Perhaps in August of 1972—perhaps—in that period. It was one of my first visits to Washington.

I went up and saw Mr. O'Brien and introduced myself as Mr. McCord's counsel and pursuant to Mr. McCord's instructions told Mr. O'Brien that Mr. McCord wanted me to tell you that he had taken a calculated risk and was prepared to face the consequences. He wants me to—

Mr. NEDZI. Did you call Mr. O'Brien?

Mr. ALCH. From Washington for an appointment. I said, "You don't know me. I am Gerald Alch, Mr. McCord's attorney. He would like for me to see you. Can I see you?" He said "Yes."

Mr. NEDZI. Did he indicate that he was representing any of the defendants?

Mr. ALCH. No, sir.

Mr. NEDZI. Or was participating in the trial in any way?

Mr. ALCH. No, sir.

Mr. NEDZI. What did he tell you?

Mr. ALCH. He really didn't do much of the talking. I did most of it. And the meeting lasted perhaps 10 or 15 minutes and ended by my giving him my card and my making note of his office number.

And then I left Mr. O'Brien's office and went around the block to some coffee shop where Mr. McCord was waiting for me to explain to him what had happened. He said "Good, OK."

Mr. NEDZI. There was no response on Mr. O'Brien's part of any kind?

Mr. ALCH. Nothing of substance other than it was a pleasure meeting you and I will be happy to exchange office telephone numbers with you.

Mr. BOB WILSON. He was employed by the Committee to Re-Elect?

Mr. ALCH. That was my understanding, and I believe he was one of the lawyers representing the committee.

Mr. NEDZI. Was anything mentioned about the CIA in this conversation at all?

Mr. ALCH. Nothing that I can recall about it, nothing at all.

Mr. NEDZI. When was the first time that Mr. McCord talked about the CIA to you?

Mr. ALCH. December 21, 1972.

Mr. NEDZI. The CIA was never mentioned prior to that time in any of your conversations with him?

Mr. ALCH. It was mentioned as part of his background, but it was never mentioned as a potential defense until after my meeting at Mr. Bittman's office on December 21.

Mr. NEDZI. At that time who raised the question of the CIA?

Mr. ALCH. My recollection is that it was Mr. Bittman. I am not positive. But my recollection is that it was he who asked the question, can the CIA be involved in this?

It was in that context that a discussion ensued, that they were all formerly connected with the CIA, one of the Cuban-Americans had what was purported to be CIA forged documents at the time of the arrest. I brought out my discovery with regard to the remark that allegedly was overheard by the District of Columbia policeman. And what prompted that was my coming forth at this meeting, talking about a great many things, but I started it off by saying "Here is my defense," in which I went into the duress thing, and as I told you before, they said "That doesn't apply to us."

At that point, "What about CIA? Could they be involved?"

And before we went to other topics it was agreed each lawyer would talk to his client about it, which occasioned my bringing it up to Mr. McCord at our luncheon immediately after this meeting.

Mr. NEDZI. Did you have any feeling that the CIA was actually behind all this at this time?

Mr. ALCH. I did not; except when all of these potentially suggestive circumstances were discussed. I thought it was worth asking, in any event. But, frankly, it had not entered my mind as any potential defense, up until that time.

Mr. NEDZI. So you raised the question with Mr. McCord on December 21, following this meeting?

Mr. ALCH. Yes, sir.

Mr. NEDZI. What was Mr. McCord's response?

Mr. ALCH. He did not give me a specific yes or no. He went off into a bit of a tangent, and began complaining about how he thought the White House was trying to undermine the CIA by replacing Mr. Helms with Mr. Schlesinger. He made a remark to the effect that anyone subpoenaed from the CIA could not, or would not comply with it.

Mr. NEDZI. This is a meeting at the Monocle?

Mr. ALCH. At the Monocle.

I don't remember anything more specific that he said about it, except that he did not say to me at that meeting yes or no. He just didn't say it.

Mr. NEDZI. Did you ask him?

Mr. ALCH. I did.

He said to me, "Let me think about it."

And I said, "Well, I'm going to be meeting with you next week."

We set up a date in Boston on December 26. But when I left that restaurant that luncheon at the Monocle, in my mind I had not received a definitive affirmative or negative response from Mr. McCord. It was obvious he had strong feelings of loyalty to the agency. It was obvious that he felt that they were being undermined—this is the term I just used—by the White House. And he said, "Let me think

about it," which was not a very uncommon response from him during the course of my months of knowing him.

I can't recall any specific instances, but there were other instances where I would ask him questions about the case, not perhaps of great significance, but he would say, "Let me think about it." He was not one to come right out, respond right away with a definitive yes or no.

Mr. BRAY. Mr. Chairman.

It would seem a little illogical when he was defending the CIA. It looks like his theory was that the White House was trying to, in my words, blame the CIA. Then when you asked him that, he said "Let me think about it."

That is rather inconsistent.

Mr. ALCH. It was. But when he talked about the CIA being undermined by the White House, I didn't get the impression that he was using it in the context of the White House trying to blame the CIA for the Watergate incident.

My impression was he was talking about a general attempt by the White House against the agency divorced from—

Mr. BRAY. That would have been a logical answer for him to make, "Well, let's pursue it further." He meant pursue it further in his own mind. There might be some angle.

Mr. ALCH. He obviously gave me the impression—he did say, let me think about it.

Now, what he was thinking about, or why he wanted to think, I don't know.

Mr. BRAY. Later he did tell you they did not have any connection?

Mr. ALCH. At our next meeting 5 days later in Boston.

Mr. BRAY. Thank you.

Mr. ALCH. At the same time he told me that he said, "I want you to go back, when you see the defense lawyers again and tell them two things; 'The CIA is not involved.' And, 'I won't have any part of that defense.'"

Which I did.

Mr. BRAY. He never took any different position.

Mr. ALCH. On July 3.

Mr. BRAY. He never expressed any other useful philosophy to you than that, after that, at no time did he say to you the CIA was involved. In fact, he took the opposite view?

Mr. ALCH. Yes, sir. He took the opposite approach.

Mr. HÉBERT. Pursuing what Mr. Bray has said:

The first time the CIA was ever mentioned or injected in your conversations with Mr. McCord was at the Monocle meeting?

Mr. ALCH. Yes, sir.

Mr. HÉBERT. It was not injected or mentioned before in any previous conversations?

Mr. ALCH. No, sir, because it had never entered by mind.

Mr. HÉBERT. The first time the CIA was injected Mr. McCord said "Let me think it over," or words to that effect?

Mr. ALCH. Yes, sir. "Let me think about it."

Mr. HÉBERT. Yes. That was the first time you ever mentioned CIA to Mr. McCord in your discussions with him. The second time was the Boston meeting in which they said they are definitely not involved?

Mr. ALCH. That is right, Mr. Congressman.

Mr. BRAY. Later when you talked it over did you have the idea, after you mentioned it and it did enter his mind to see if there was some connection, he wanted to think it over?

Mr. ALCH. Or, perhaps—and this was strictly surmise—I just didn't know. He may have been talking to other people. I don't know. This is all hindsight. I'm looking back on it now. I don't know.

Mr. MELVIN PRICE. Mr. Chairman.

On that point, at the Monocle, the way your statement reads here, he become emotionally concerned when you mentioned the possible involvement of the CIA?

Mr. ALCH. I think that would be a correct characterization.

Mr. MELVIN PRICE. In other words, you had the feeling somebody was trying to involve the CIA?

Mr. ALCH. His emotional reaction was directed toward a general antagonism on the part of the White House and what he called a "hatchet job" by the White House against the CIA by virtue of replacing Mr. Helms with Mr. Schlesinger.

Mr. MELVIN PRICE. While he did not say definitely to you they were not involved in it, but the fact that he became emotionally upset immediately indicated he felt they were involved?

Mr. ALCH. Or that he felt that Mr. Helms was more independent than Mr. Schlesinger.

The idea conveyed to me was that Mr. Schlesinger would be less independent on behalf of the CIA than Mr. Helms was. That was my impression from the way he said it.

Mr. NEDZI. Did you mention Mr. Marchetti to him?

Mr. ALCH. Yes, sir.

Mr. NEDZI. Why did you do that?

Mr. ALCH. In the course of the discussion we were talking about whether or not CIA agents were subject to recall. This had been mentioned at the meeting, as one of the—

Mr. NEDZI. At which meeting?

Mr. ALCH. At the Bittman office meeting on December 21.

Mr. NEDZI. Who mentioned it?

Mr. ALCH. I don't recall. But that was brought up—

Mr. NEDZI. Who was at the meeting?

Mr. ALCH. Mr. Bittman, of course, Mr. Maroulis, Mr. Rothblatt, I believe Mr. Mittler, who was one of Mr. Bittman's associates. I think that is all.

Mr. NEDZI. Was Mr. Liddy there?

Mr. ALCH. He may have been. The reason I say that is because there were occasions when there would be meetings on pretrial matters. The notification came to me it was a meeting of lawyers. And Mr. Liddy would be there.

It was more or less explained since he was a lawyer himself he wanted to take more active part than nonlawyer defendants as far as keeping an eye on what his lawyer was doing, or something like that. He may have been there.

I just don't recall with any certainty. It would not surprise me if he was.

Mr. NEDZI. What is your understanding of this recall of agents?

Mr. ALCH. What was my understanding of it?

Mr. NEDZI. Yes.

Mr. ALCH. It was put out just that way.

By the way, you know that, it was in context of pointing out all of the men that had prior connections with the CIA. The forged documents handed in—in possession of one of the Cuban Americans at the time of his arrest. The fact that CIA agents are subject to recall, even after they leave the employ.

Mr. NEDZI. What is meant by that?

Mr. ALCH. I interpret it to mean that even though they may retire, so to speak, from active duty, that they might be on some sort of reserve status. I don't know. This is the way I interpreted "subject to recall." In other words, they can get a call and they will say "We want to activate you again."

I don't know. This is what went through my mind. That is why I brought up Marchetti with Mr. McCord. I said "I understand a guy by the name of Victor Marchetti has written a book about the CIA. It is supposed to be the most revealing thing about a secret organization."

Mr. NEDZI. This information about Marchetti is from public sources, or how do you know about Marchetti?

Mr. ALCH. I reviewed the book in Time magazine, or Newsweek magazine. Mr. McCord's response was, "Marchetti is not in the good graces of the CIA. Everyone in the CIA looks down on him. They don't like him."

Mr. NEDZI. Let me ask you a question there.

These documents were received?

Mr. ALCH. Yes.

Mr. NEDZI. What were the dates?

Mr. ALCH. I don't know.

Mr. NEDZI. What were the documents?

Mr. ALCH. They were alleged, or purported, or could have been CIA-forged documents, or provided by the CIA; I was never clear on it.

Mr. HÉBERT. The reason for my question is this involved the Cuban citation. Do you know when they were dated?

Mr. ALCH. I don't know.

Mr. HÉBERT. This is one of the persons carrying around the Cuban documents?

Mr. ALCH. Yes.

I don't know the dates.

Mr. BRAY. Mr. Chairman, I want to pursue a little further the reaction of McCord when you broached the subject, the CIA matter.

As a matter of timing, had Helms left the CIA before the Watergate? He hadn't, had he?

Mr. ALCH. I don't know. It was when he was made Ambassador to some foreign country, but it had happened prior to our meeting at the Monocle Restaurant. Whether it happened prior to the Watergate, I just don't know, Mr. Congressman.

Mr. BRAY. I didn't think it was. I was pretty sure it wasn't.

Accordingly—apparently McCord felt an intense loyalty to Helms which apparently he didn't feel toward his replacement, Mr. Schlesinger.

Mr. ALCH. That is a fair assumption, yes, sir.

Mr. BRAY. That might account for his reluctance to make an immediate decision.

Mr. ALCH. That is possible.

Mr. BRAY. That is all.

Mr. NEDZI. During your conversations and activity—conversations with, and activity for, Mr. McCord, did you have conversations with Mr. Bailey?

Mr. ALCH. During my representation of Mr. McCord?

Mr. NEDZI. Yes.

Mr. ALCH. Yes, sir.

Mr. NEDZI. How frequently?

Mr. ALCH. I don't know how frequently. I would say certainly four or five times a week, something to that effect. Even when he is out of town, I can't think of 2 days in a row that I wouldn't—

Mr. NEDZI. With regard to representing Mr. McCord?

Mr. ALCH. On the question of representing Mr. McCord.

Mr. NEDZI. Yes.

Mr. ALCH. It was simply before I met with Mr. McCord in Boston for the first time, but that I just said to Mr. Bailey one of the burglars, or one of the men arrested at the Watergate is coming in obviously to see if we are going to retain him or represent him. "Will you be interested in representing him, and if so, what is your feeling about the fee I should quote for you personally." Because, when we quote fees for Mr. Bailey, personally, or me, personally, he said, "I am not interested in the case. If he wants you to see if you want to take it and quote whatever fee you think appropriate."

Mr. NEDZI. Well, did you talk to him about the case subsequently?

Mr. ALCH. Certainly, sir.

Mr. NEDZI. In what context?

Mr. ALCH. More or less of a "keeping him advised of the program," as I would on practically every case of significance that I was handling. That was part of the office routine.

Mr. NEDZI. What did you tell him following this conversation that you had? Did you talk to him after you talked with McCord about the CIA thing?

Mr. ALCH. I did. I think it was that same night. And I told him about my conversation with the other lawyers, and by my conversation with Mr. McCord regarding the potential involvement of CIA.

Mr. NEDZI. How did you feel about it?

Mr. ALCH. He said to me, "I don't think they are involved," and I believe he said—I know he said, "Unless he comes up with solid proof of it, don't use it. Because if he doesn't come up with solid proof of it, I think you are going to be suborning perjury," or words to that effect. "If he doesn't come up with any proof of it and he insists that you go forward with it, withdraw from the case."

He got quite mad about it. He was yelling at me on the telephone.

Mr. NEDZI. Why did he not believe that the CIA was involved?

Mr. ALCH. I don't know.

Mr. NEDZI. You had doubts apparently?

Mr. ALCH. I didn't know. I thought it was worth asking the questions.

Mr. NEDZI. You didn't know, you had doubts, right?

Mr. ALCH. Sure. I don't want to say "doubts"—

Mr. NEDZI. The conversation of a telephone call with you, he says he doesn't think they are involved?

Mr. ALCH. That is right. And further than that, he asked "without solid proof to the contrary," he said to me not to go forward with it. It was an employer-employee-conversation-tone.

Mr. NEDZI. Do you have any speculation why he could feel so positive about it? You were on the ground floor.

Mr. ALCH. Yes.

Mr. NEDZI. Getting the firsthand information?

Mr. ALCH. I can only give you a conjecture, and the conjecture I have is that Mr. Bailey is a very, very—how can I put it—he is a stickler for legal propriety in trying a case. Now this may be contrary to his image in various locations throughout the country, but I work with the man, and although he fights, really, with all of his might for his client, his whole approach is he absolutely rebels against anything that smacks of impropriety. That is my conjecture as to his reactions.

Mr. NEDZI. Why should this "smack of impropriety?"

Mr. ALCH. I don't know. Because he said to me he didn't think they were involved and if I went forward with it, without proof that they were, it, he said, would be suborning perjury.

Mr. NEDZI. Mr. Alch, it seems to me based upon the manner in which you presented the case to us, you said the same thing to Mr. Bailey, the reasonable response on his part would have been to say, "Well, explore it."

There is a certain inconsistency in your statement here when you say that Mr. Bailey said that he did not believe the CIA was involved, and he said you should withdraw from the case if Mr. McCord insists that you use this defense, when Mr. McCord never raised the defense.

Mr. ALCH. No; but I told Mr. Bailey that I had discussed it with Mr. McCord and Mr. McCord was in the process of letting me know, giving me an answer to the question I had posed to him.

Mr. HÉBERT. Mr. Chairman, do I understand this too; Mr. Bailey's reaction, as the chairman said, "unless you have positive proof," but he didn't cut you out of the picture?

Mr. ALCH. That is correct.

Mr. HÉBERT. But he told you unless you had positive proof then go ahead?

Mr. ALCH. Right.

Mr. HÉBERT. That is what you are saying.

Mr. ALCH. Yes.

Mr. HÉBERT. It wasn't a question of saying "don't you do anything under the circumstances"?

Mr. ALCH. That is correct.

Mr. BRAY. Mr. Chairman, I think that is very logical, a man of experience of Mr. Bailey's reputation—I do not know him, I know somewhat of his reputation—and it follows generally what you stated, that to involve a group like the CIA, "Let's make sure before you do that, make sure you are right." And you have substantiating evidence.

The fact that you said to your client, when he said he would "think it over," I certainly would feel as he did, to say, "Don't get involved in anything like that until you know where you are, because you are picking up something pretty strong."

Mr. ALCH. That was my impression, Mr. Congressman.

Mr. BRAY. In fact he had some doubts it was involved in the CIA. I would have strong doubts it was not true. In fact, if that was a logical defense, your client would be very interested in doing it. When he said he had doubts, that is the same as saying "look things over, and we will do something then."

I get the same view that the he did. Nothing could be more disastrous than to try to involve someone else in a case where you didn't have any evidence. It would be embarrassing, it would murder your client, and also certainly would be a matter of putting the lawyer in very bad repute.

Mr. ALCH. That was the import of his words.

Mr. BRAY. I can understand that very logically.

Mr. ALCH. Mr. Congressman, I might add he was very, very vehement in it.

Mr. NEDZI. That is the part which causes me some puzzlement, Mr. Alch. Why he should be vehement about something that seems perfectly reasonable and appropriate on your part, as you put it. Why should he believe there is something untoward about this kind of defense and become vehement?

Mr. ALCH. I don't believe, Mr. Chairman, that when I had him on the telephone I went into the details of the meeting with the lawyers as I have gone into them with you. I sort of gave him a capsule report saying I had a meeting with the lawyers and a meeting afterward with Mr. McCord regarding the possibility of the CIA being involved and utilizing that as a defense.

Mr. NEDZI. My concern, Mr. Alch, is that the tone of the meeting which you had—and the proving of his defense—was based upon something that did not have solid foundation and may have been a deliberate deception of some sort.

Mr. ALCH. You are saying that was my impression?

Mr. NEDZI. What is that?

Mr. ALCH. Are you saying that was my impression? I didn't have that impression.

Mr. NEDZI. It is my impression something must have suggested to Mr. Bailey impropriety for him to respond as strongly as he did.

Mr. ALCH. I don't think so, because of his saying to me, unless you get proof of it, don't use it.

Mr. NEDZI. You repeatedly said he was to the point of being violent, I think were your words?

Mr. ALCH. I said he was vehement.

Mr. NEDZI. Vehement.

Mr. ALCH. Right. I don't see anything—respectfully, Mr. Chairman—anything inconsistent in what I told him and his response to me.

Mr. NEDZI. Probably not. I am willing to accept his response, except I do think it is inconsistent if it is an ordinary conversation about a reasonable, logical defense in a criminal matter. It is not a reasonable response, or it is a reasonable response, if you stray from the reservation, legally speaking.

Mr. ALCH. In that regard, Mr. Chairman, keep this in mind, please. I had never before that time even mentioned CIA to Mr. Bailey, because it was never in my mind. He knew that I was formulating my defense as I ultimately presented it—duress—he was hearing this

for the first time with the trial a week or two away. In fact, less than 2 weeks away.

Now, he was not privy to the meeting at Mr. Bittman's office where the suggestion of why this was not so ridiculous was being bandied about.

Mr. NEDZI. Mr. McCord, testifying before our subcommittee, said he paid you \$30,000. Did he?

Mr. ALCH. No; he paid me a total of \$26,500; \$1,500 of which went to Mr. Shankman.

Mr. NEDZI. Was there any indication as to where this money came from?

Mr. ALCH. Well, he never told me. He just gave it to me. I never got a dime except from him.

Frankly, as I began reading stories in the newspapers, about \$100 bills being quite in style with regard to the Watergate financing—and I had received moneys in the main in \$100 bills—I wasn't that naive to put two and two together. But frankly I wasn't about to refuse it on that basis.

Mr. NEDZI. Did you meet with a Kenneth Parkinson at any time?

Mr. ALCH. At one time in my initial meeting with Mr. O'Brien. When I walked into his office, another gentleman was there. He introduced me to him as Mr. Kenneth Parkinson. That is the only time I ever met with the man.

Mr. NEDZI. Did he have anything to contribute to the conversation?

Mr. ALCH. No, sir.

Mr. NEDZI. Did he do any talking?

Mr. ALCH. Very little—he said "Hello, nice to see you,"—stuff like that.

Mr. NEDZI. This was early in your representation of Mr. McCord?

Mr. ALCH. Yes, sir.

Mr. NEDZI. Mr. Alch, can you help the subcommittee in understanding why Mr. McCord would prepare notes and send them to the CIA following your conversations with him about the CIA?

Mr. ALCH. I cannot. I didn't know he was sending the letters to the CIA. I just don't know.

As a matter of fact, Mr. Chairman, I have been trying to figure out in my own mind why this man is making the allegations he is making about me. Because, I ask you to understand that from the first time I met him to his being out on bail, going before the Senate committee in executive session, to the time that a memorandum was published in May of this year, in which he alleged that I offered to alter his personnel records with the cooperation of Mr. Schlesinger, our relation was letter perfect, at least in my reading of it. And when I read that memorandum in the newspaper, the first thing I did was pick up the telephone. I called him two or three times. He would not return my call. I called Mr. Finsterwald. I said, "What the hell is going on here?"

Finsterwald said to me, I told McCord to call you before he issued that memorandum.

I said, "Well, he didn't. Now what is this all about?"

This never happened.

Finsterwald told me that Mr. McCord had learned that the Los Angeles Times was going to break with the story, and that Mr.

McCord wanted to beat them to the punch; by issuing this memorandum.

When I couldn't get in touch with Mr. McCord, I filed a motion with Judge Sirica attaching a copy of the memorandum as it appeared in the New York Times, and moved for leave to withdraw it. This was something I sent in consent form for Mr. McCord's signature to Mr. Finsterwald. He procured Mr. McCord's signature, it was filed in court. I don't believe the Judge had acted on it yet, or I think maybe he did act on it just before——

Mr. NEDZI. When did you prepare the motion to withdraw?

Mr. ALCH. In the middle of May, after this memorandum came out, but before Mr. McCord testified in open session before the Senate Select Committee. Then when I was on vacation in Orlando with my in-laws, it was May 19; I remember the date because it was the day that Mr. Bailey's indictment came down; Mr. Bailey interrupted my vacation and said "I want you to meet with the U.S. attorney in Florida at 7:30 and talk to him and see how it looks about an indictment coming down against me."

I met with the U.S. attorney at 7:30. After meeting with him, drove back to Orlando, Fla. where I was staying at a hotel. Got into my bathing suit, mixed myself a Bloody Mary, turned on the television, and as the picture came on the first words I hear are, "Alch, Gerald Alch, pressured me with executive clemency, with CIA; offered to forge my documents," and, you can imagine my reaction.

That night my office called me and they tell me I have a telegram from Sam Dash saying "We want to talk to you." Well, I called up Mr. Dash, made arrangements to see him the following Tuesday, and said to him, "I'm happy to see you but I want a chance to go before the television cameras and rebut publicly, not just in a statement to you, what this man is saying to me. And they granted my request.

It was the most earth-shattering experience, because——

Mr. BOB WILSON. How many more Bloody Marys did you have?

Mr. ALCH. I didn't abstain for the rest of the day.

The thing that really shocked me was that this was completely—forget the without-foundation theory—it was completely without any type of advanced—even a hint, of this guy not having anything but the highest respect for me. It was a complete surprise to me. And I have been wondering in my mind why he did it. I have a conjecture, if you would like to hear it.

Mr. NEDZI. I ask for your help in our evaluating the situation.

Mr. ALCH. I can't prove this, because I can't. It is just what I have been thinking in my mind, and here is what I think.

I invite your attention to the letter that he wrote to Chief Judge Sirica. That letter, of which I had no knowledge, after numbering political pressure; perjury occurred in the trial, others involved were not identified during the trial, the Watergate operation was not a CIA operation, some statements he made, et cetera, following all that in the next to the last paragraph he says, "I have not discussed the above with my attorneys as a matter of protection for them."

Now, when Judge Sirica read that letter off, you can imagine my objection. I turned to McCord, after a 20 minute recess, and he said to me, "I purposely kept you out of all of this to protect you." I was

never sure what he meant by "protect you," from Judge Sirica. I didn't know what he meant. I didn't feel any danger around me.

Here is Mr. McCord moving for a motion for a new trial. He has two barriers to overcome, one, is not a barrier, he is claiming as a part of his motion for a new trial he now knows things he didn't know, that is, the plumbers group, direction from the White House, which he says had he known he may have utilized that as a defense.

That is a very proper procedure, but McCord—

Mr. NEDZI. How could he use that?

Mr. ALCH. Who knows. Maybe he would have instructed me to investigate the possibility of legitimacy arising from ultimate White House direction. I don't know. That is what he alleged in his motion for a new trial.

But here is his problem. He says to Judge Sirica, in this letter which I'm sure he would like to have back and redress, that I kept all this from my attorneys. Now, legally speaking, that pulls the rug from these allegations being a ground for motion for new trial, because the natural response from the prosecution should be, "But you knew about this and you elected to sit on your hands and do nothing about it. So you can't come up now and say I want a motion for a new trial." So McCord countered by saying "I knew about it but I was pressured by my lawyer not to say anything about it."

That, to me, is my surmise as to why he is turning on me. He's got to get over that impassive sitting on things which he acknowledged he knew but didn't tell me.

Mr. NEDZI. I understand that, your account of that phase of it, but let us have the benefit of your conjecture on why back in December Mr. McCord would write to the CIA, on December 29, 3 days after the meeting with you.

Mr. ALCH. It is a guess, because I never knew of his writing the letters. But now as I look back on it, it could be, and I just don't know, but it could be.

Mr. NEDZI. Let me quote to you a sentence from this note. It says: "In meetings recently in which plans for our defense in the Watergate trial were discussed, he persisted"—referring to you—"in a proposal that I claimed the Watergate operation was a CIA operation."

Do you have any conjecture that might be of assistance to us in understanding why he would write something like that 3 days after meeting with you—8 days after meeting with you, in which the CIA events were discussed?

Mr. ALCH. What was the date of that letter, Mr. Chairman, December 29?

Mr. NEDZI. December 29.

Mr. ALCH. I have a reason to support it, and they are both conjecture. It could be, keeping in mind his announced extreme loyalty to his former employer, the CIA, that he interpreted this topic being raised at the lawyer's meeting as an attempt to bring the CIA into it. That is conjecture. That may have been why the thought of writing to his ex-comrades may have entered his mind.

But what negates that is that on December 26, 3 days before that letter was written, that issue, at least as far as he and I were concerned, was put to rest. Because on December 26 he said to me they weren't

involved. "I won't have any part of it. And you go back and tell the other lawyers." Which I did, on January 3.

Mr. SLATINSHEK. Mr. Chairman, at this point, for the record, could I read into the record what he had testified to in regard to this?

Mr. NEDZI. Yes.

Mr. SLATINSHEK. This is in reference to the December 26 meeting with you, and I read:

Mr. McCORD. It was December 26, the day after Christmas when I flew to Boston at his request. He arranged, as I said before, on December 21, "Please come up on Tuesday and we will do some planning for your defense for the case." So I got there about 10:30 in the morning. I remained there until mid-afternoon and then I flew back, and throughout that period, from 10:30 until 2:30 or 3:00, or 3:30, whatever it was, the pitch was repeated continuously, use as my defense "this was a CIA operation."

He began by showing me, pointing to his desk and saying, this is the letter we got. This is the copy of the statement of Bittenbender, the police officer, and Bittenbender allegedly said what I previously described. And then his comments to me throughout the whole thing is, "Why don't you use," throughout the day, "Why don't you use your defense it was a CIA operation."

I repeated to him what I said to you already.

Mr. NEDZI. Let me just follow that with this memo which he prepared on December 29 and sent to the CIA at that time. The sentence I have already read.

In meetings recently in which plans for our defense in the Watergate trial were discussed, he persisted in a proposal I claimed the Watergate operation was a CIA operation. This is flatly untrue.

When I rejected it he then went on to make a second proposal.

Mr. ALCH. Did he say what the second proposal was?

Mr. NEDZI. "The second proposal then was, I claim that the four Cubans and I cooked up the bugging operation on our own. This also is not true."

Mr. ALCH. Well, if his recollection is hazy, it is that. If his recollection is not hazy, it is a lie.

Now, he got to my office about——

Mr. NEDZI. Can you help us in determining what possible motive he might have had for preparing this kind of memorandum and for saying these things?

Mr. BOB WILSON. Justifying getting rid of Mr. Alch, is the thing projected.

Mr. ALCH. Let me point out two things: No. 1——

Mr. NEDZI. You don't need any justification for that, do you?

Mr. ALCH. No.

Listen, he got to my office at 10:30. He may have landed in Boston. He got to my office at 10:30. At 12 o'clock he, I, and two other members of my office went out to lunch. And after lunch we drove him to the airport. So that the meeting between a lawyer and his client lasted about an hour and a half.

I got this letter marked exhibit D from him in the period between December 26 and January 3 when he ends the letter by saying "I look forward to seeing you on Wednesday," that is Wednesday, January 3.

Did this letter portray a man who has been so pressured by his lawyer to lie about the CIA, writing me this type of letter? I mean, he doesn't even mention it. It is completely inconsistent with that type of attitude.

Mr. NEDZI. Can the date be established in that letter more firmly?

Mr. ALCH. Only my recollection as buttressed by the end of it.

"I look forward to seeing you Wednesday." And the opening with "The attached is per our discussion," because we had talked on December 26 about Baldwin.

At that time there was a motion to be filed, the Los Angeles Times reporter was going to be held in contempt if he didn't turn over his interview notes. It was happening in court.

Mr. NEDZI. If he suspected you of anything, I don't think that the letter is necessarily inconsistent.

Mr. ALCH. Well, certainly, if he is vehement enough in his dismay of me, to write to the CIA. I can't see him writing me a friendly letter without making any reference to it. That would almost make him a crafty individual.

Mr. NEDZI. He is a retired CIA employee.

Mr. ALCH. Yes. And then in this period I called him—for the purpose of confirming our appointment on the following Wednesday, and he wouldn't return my calls. About five times I called him. This was very odd to me, because he always returned my calls immediately. I get a call from Barney Shankman July 2 saying to me that McCord gave a letter to Judge Sirica dismissing me as his counsel.

I said, I don't understand it. Tell him I'm coming in on the 3d, I want to talk to him.

We met.

I said, what is this letter about to Judge Sirica?

And he said to me, never mentioning CIA, he said, "I don't think that we've got enough of a communication avenue open. There is a gap in communications, and I don't think you are prepared to try this case."

I said to him, I want you to know on that score I spoke to Judge Sirica's clerk, and Judge Sirica's clerk said you are free to choose anyone you want, but this will not occasion a continuance. I'm still your counsel of record.

At that point he stuck his hand out, he said, "I'm sorry, it is the pressure and anxiety of the approaching trial."

We shook hands, went before Judge Sirica in an open court.

He said to Judge Sirica, "I wish to withdraw my request on notification, whatever you want to call it, of wanting to change lawyers."

That was the only riffle, so to speak, in our entire relationship in which he evidenced directly to me displeasure.

Mr. BRAY. When was the case tried?

Mr. ALCH. January 8 it was tried, Mr. Congressman.

Mr. BRAY. This was 5 days after this.

You mentioned the third.

Mr. ALCH. Yes.

Mr. BRAY. How long did it last?

Mr. ALCH. Four weeks.

Mr. BRAY. What is that?

Mr. ALCH. I believe 4 weeks, approximately.

Mr. BRAY. Did you later appeal the verdict?

Mr. ALCH. It is still not timely. You have to get your sentence first before you file the notice of appeal.

What I did was, I filed the motion to reduce the bail before Judge Sirica. Denied. I appealed the judge's denial to the circuit court. In that pleading I said to them, my appeal is not frivolous, because here are some of the grounds I intend to base my appeal on. The circuit court of appeals sat on it. And, incidentally, enough came down with a per curium denial the day McCord got out on bail.

Mr. NEDZI. Mr. Alch, can you help us further with the obvious discrepancy between notes prepared by Mr. McCord on January 3, obviously following the meeting you had with him in Judge Sirica's courtroom, and your account of what transpired? Mr. McCord says in this note:

I had advised Alch orally the reason for his dismissal was his pressing the defense issue on me, or trying to, of placing the blame for the operation on the company where it did not belong.

I repeated that I would not stand for it, nor would I sit still for any other defense attorney trying to do it.

Alch met with me this morning and assured me the issue was dead, he would not try it again, nor would anyone else.

We met with the judge and the others, and in a brief session answered his questions without disclosing exactly what was at stake. He obviously knew something was up and is now alerted.

Mr. ALCH. It is factually inaccurate. There was no contact between McCord and me between December 26 and January 3. He would not return my phone calls. I knew something was up, but I didn't know what.

When I met him and confronted him with the letter, he never mentioned the CIA as the reason for his dissatisfaction with me.

I guess, and I may have been wrong, he wanted to continue it because he changed his tone.

I told him the Judge——

Mr. NEDZI. Is there any speculation as to why he would write this kind of note on this date, the day you are describing to us? I don't think there is any question about the date, because the postmark on the envelope reflects it was actually sent out at that time.

Mr. ALCH. It just leads me to ask a bigger question. And the bigger question is this: Obviously, this man was not only being less than frank with me, but he was making moves of his own without telling me. Now, what his ultimate purpose was—could have been—and you are asking me for conjecture—could have been tied in with the one question that he was asked, which in my opinion never was satisfactorily answered.

Senator Ervin asked him, "Why didn't you raise all of this at trial?"

His answer was, "The timing was my own."

And then Senator Ervin suggested to him, "Is it because you would have been the only voice at that time and you felt you would have been locked in the wind like one blade of grass?"

He said, "Yes."

That doesn't wash with me, when he wrote that letter to Judge Sirica. At sentencing time he was still the lone blade in the grass, that is what started this investigation to increase.

I don't know, except to wonder, not at the misconstruction of facts in the letter but why he was making these moves without telling me. That is the puzzle to me, which is greater and, which I can't answer—

except that the man was obviously making his own moves, to which I was not privy.

Mr. NEDZI. Can you speculate on what his motives would be to do something like this? I don't see any advantage to him in putting something like this down on paper and sending it to the CIA?

Mr. ALCH. Alright.

Again I emphasize, it is speculation. I have nothing to back it up. This is not exactly away from my mind.

Let's suppose for the sake of argument, let's just suppose that Mr. McCord was in contact during the trial and before the trial with some representative of the CIA, a former colleague. Let's just suppose. And let's just suppose he was accepting discreetly, unbeknownst to me, counsel from whoever this CIA contact was, and acting at the advice of this contact to protect the CIA but still keeping me above the surface as far as these activities are going and just wanting me to give him the best trial and the best record for appeal purposes. Because, why else would he, according to his own testimony, have waited until the day of sentencing to send that letter to Judge Sirica, again, without my knowledge?

Why?

You are asking me for conjecture.

That could be it.

If he was doing that, that could explain why at the Monocle Restaurant instead of giving me a yes or no answer he said "Let me think about it," and then came back on the 26th with the vehement denial.

You have asked me for conjecture. I cannot present you proof. But to me it might be an explanation.

He was obviously doing a lot of things I didn't know about, and that could have been one of them.

Again, Mr. Chairman, it is just conjecture.

Mr. NEDZI. Do you care to state—we will state to you, Mr. Alch, we have gone into this matter with a fine tooth comb with the Agency, the addressee of those notes, and there is absolutely no evidence that Mr. McCord was in touch with anybody at the CIA, or the CIA was in touch with Mr. McCord at any time with respect to this particular matter.

Mr. BRAY. Mr. Chairman, I suggest that the writing of those letters are just as explainable as his action with you. I mean, the thing doesn't drag at all.

Mr. BOB WILSON. Has the Senate or anybody had a statement or interrogated Bernie Shankman?

Mr. ALCH. I can answer that.

I have been advised, after my testimony, the Senate requested a meeting with Mr. Shankman and received from him, pursuant to their meeting, a statement in which he corroborated my contention that at the Monocle Restaurant during the discussion of the CIA there was never any mention of forging records with the cooperation of Mr. Schlesinger. His version of his recollection of the Monocle luncheon is pretty much squaring with mine.

Mr. BOB WILSON. In other words, there are two of you against McCord in the statement that at the Monocle they wanted you to get Helms to testify and implicate Helms.

Mr. ALCH. I think the main bone of contention was whether or not I said to McCord, in words or substance, I can effectuate the alteration of your personnel records, and Schlesinger will go along with it. I believe Mr. Schlesinger said in his statement that never was said. And it wasn't.

I don't know anybody, let alone the Director of the CIA to have him in my pocket.

Mr. NEDZI. Did Mr. McCord at any time discuss Mrs. Hunt with you?

Mr. ALCH. He may have mentioned her as being Hunt's wife, but other than that nothing of significance that I can recall.

Mr. NEDZI. He never indicated that she had told him that there was some effort to place the blame of the Watergate operation on the CIA?

Mr. ALCH. Never.

Mr. NEDZI. When did you first contact Mr. Bittman, or did he contact you? How did that come about?

Mr. ALCH. I believe—I don't remember who initiated it—I think it was by telephone—for the purpose of having a meeting in Washington of defense counsel. I frankly don't recall. I believe the request came from Bittman, or it may have come from me. I may have called him and said, "I think it would behoove all of us to get together and start talking about such matters as pretrial motion so we won't overlap them. Maybe we can assign"—in fact that is what happened—one of our early meetings was for the specific purpose of assigning areas each lawyer would cover in pretrial motions so as to avoid an overlap.

Mr. NEDZI. Did you regard Mr. Bittman as the chief counsel in this group of attorneys, in any sense?

Mr. ALCH. I wouldn't say that. I would say this: He impressed me as being a fine lawyer, both morally and intellectually—a brilliant guy. He was as nice as punch to me, even after he was no longer in the case, by virtue of his client's meeting. He provided me any time I wanted it, which I took advantage of, during trial, his secretary and office for research and typing up of motions, because I had no base of operations. Mr. Shankman's office simply wasn't geared to handle it. He was nothing but a gentleman to me at all times. I was frankly sorry to see him get out of the case because I was looking forward to working with the man. I have nothing but praise for him. I think he is a fine lawyer.

Mr. NEDZI. What about the other attorneys, Mr. Rothblatt, Mr. Maroulis?

Mr. ALCH. I knew Mr. Rothblatt before the Watergate because of his association with Mr. Bailey. They worked on cases. They had co-defendants in the My Lai incident. They coauthored books together. I knew him very well, and again had nothing but the highest praise for him.

The lawyers I met for the first time were Bittman, Austin Mittler, and Peter Maroulis.

Mr. NEDZI. Did you have separate dealings with any of these attorneys, or was it all in connection with group strategy?

Mr. ALCH. Group strategy.

As I say, when the trial commenced the only lawyers at the council table were Maroulis and myself.

Mr. BOB WILSON. Mr. Chairman.

Mr. NEDZI. Go ahead, Mr. Wilson.

Mr. BOB WILSON. Do you have any lingering doubt, or as a result of your conjecture, is there any thought that you might have that the CIA might have been involved in the Watergate operation?

Mr. ALCH. I have no evidence to base that on. By evidence, I mean what I have been reading and listening to in the course of these hearings. There may have been an attempt by people in the White House, if these allegations are believed, to make them a part of it. But I never came across any evidence that they were involved.

Mr. BOB WILSON. You stated that Finsterwald told you that there was going to be a move to get the President. Do you conjecture, or could you conjecture that any of these self-serving documents that were sent to the CIA might have been a part of that Finsterwald plan to get the President?

Mr. ALCH. That would depend, Mr. Congressman, on when Finsterwald came into the picture.

Mr. BOB WILSON. That is what I am trying to find out.

Mr. ALCH. I have doubts.

Let's put it affirmatively: I have reason to suspect that he was in the picture before I came to know about it.

Mr. BOB WILSON. I have reason to suspect the same thing.

Mr. ALCH. Right. And when he said to me—I mean his whole interest in it—entrance into it was mysterious.

Mr. BOB WILSON. Very strange?

Mr. ALCH. It was, not only in the bailing aspect of it, but the day Judge Sirica read McCord's letter I was standing with McCord in the hearing room, a man came up and said to McCord, with his hand up like this [indicating], "When this is over you can use my office." He whispered.

So I said to Jim McCord, "Who is this fellow?"

He said, "That is Finsterwald, Bernard Finsterwald."

I said, "Oh."

"I talked to you on the telephone many, many times. How do you do."

He shook my hand.

That was the first contact I had had with him.

Then at another time we were in court for sentencing—these sentences have still been continued—I had occasion to say to him, "Look, you are embarrassing me not only with the letter but, if I'm going to represent McCord at least let me know what he is doing. I know I can't be there, but at least keep me in the light."

And he said to me, "I will call you every single day in Chicago even if I have nothing to tell you."

He didn't, of course, but there were calls made to me and one of them is when he said to me, "What do you think about Jim?" referring to the leaks from his executive session with the Senate staff.

I said to him, "Look, whatever is right for him is right for me."

And that is when he said, "Well, you know, we are going after the President."

I said, "I'm not interested in any vendetta against the President, I'm only interested in McCord."

He said, "I'm telling you that is who I'm going after * * * I talked to Jim McNalley, who was in the room. You will never believe, what

this guy told me. He repeated to me "You should have had that on tape."

I said, "I wish I did, but I didn't," which, added to the whisper of Mr. Finsterwald—

Mr. BOB WILSON. There is a lot of mystery. The payment of the \$100,000 bail which came out of thin air, \$60,000 that Mrs. McCord got—came quickly and mysteriously in cash.

Mr. ALCH. The only thing I can add to that, Mr. Congressman, when I spoke to Finsterwald and was complaining about the memorandum, in May, in which Mr. McCord said I could alter the documents, Finsterwald said to me on the telephone, "We"—that is the word he used, obviously referring to McCord and himself—"dropped this on you like the letter we dropped on you to Judge Sirica," which was the first—

Mr. NEDZI. To what was he referring?

Mr. ALCH. When I called him up after I couldn't get in touch with McCord after the memorandum appeared about the CIA, my trying to forge the records with Mr. Schlesinger. He said to me in the telephone conversation—Finsterwald did—"Yes, we dropped that bomb on you," referring to the memorandum, "like we dropped the letter on you to Chief Judge Sirica."

Mr. BOB WILSON. In other words, he indicated—

Mr. ALCH. Yes, he had coauthored it, or knew about it, or was involved in it in some way.

Mr. BOB WILSON. That is very significant.

Mr. ALCH. I don't think at that time Finsterwald foresaw the need to set me up as a potential target, otherwise I'm sure he wouldn't have put in that last paragraph, which I cherish.

Mr. NEDZI. Mr. Alch, to get back.

Did Mr. McCord—you are perfectly clear in your mind that the CIA had not arisen as a possible defense until December?

Mr. ALCH. That is right. Because it wasn't anything that came from me, that I gave birth to. It came from the suggestion raised at the meeting. So that is why I am positive it was only at that time I mentioned it to McCord, because it had never entered my mind.

Mr. NEDZI. Did McCord ever state to you or deny to you the CIA was involved prior to December?

Mr. ALCH. I don't recall it. I don't recall it because we never discussed it. I know he didn't say to me it was involved. And if he is assuming the fact he never said it was involved and equating that with telling me it was involved, I don't know what is running through his mind.

Mr. BOB WILSON. Mr. Chairman, on the basis of his very lengthy memos to Mr. Alch of the 29th of July, very possible special defense, prejudice and so forth, there is not one mention of CIA involvement. So this thing had to come up in his mind at a much later date. I think he may have a persecution complex.

Mr. NEDZI. Mr. Alch, did you pick Boston as a meeting site for the 26th meeting?

Mr. ALCH. It is the most convenient thing. I have my file there.

Mr. NEDZI. Is that where your office is?

Mr. ALCH. Yes, sir.

Mr. NEDZI. You told the Senate committee during one of the pre-trial conferences in Mr. Bittman's office. Bittman surmised Executive

clemency might be a realm of possibility, and that you then conveyed this information to Mr. McCord.

Was there any serious talk about it?

Mr. ALCH. No, and it never was relayed to me as anything serious. It was just the opposite. Bittman didn't say it to me in a serious vein. I shouldn't say that, strike that. Here is the way it happened. I just happened to say to him when one of the meetings broke up, I said, "Bill, what do you think these guys will get when they are convicted?" That is when he said, "You never can tell. Christmastime rolls around, there may be executive clemency." A very casual remark.

Mr. NEDZI. Was it meant to be humorous?

Mr. ALCH. I didn't laugh, but I put it down as being ridiculous. I said, "Forget about Christmas. President Nixon"——

Mr. NEDZI. Was it your impression he was trying to be funny?

Mr. ALCH. My impression was that he was theorizing miles away from practicality. It was lawyer's talk that to me at the time was of no consequence. You know, this is an unusual situation, Mr. Chairman, because it is the first time a lawyer has to look back on privileged communications during the course of representing a client, and suddenly have to account for everything that he said in the course of preparing a very significant trial, when what he said is being twisted and hurled back at you. So at the time, when Bittman said that, I just walked back to McCord, I mean there was nothing sinister about it, I told him the minute I left the office, I said, you know——

Mr. NEDZI. When was this?

Mr. ALCH. I don't know, Mr. McCord said it was in December, and I am positive it was before that time. But when I went back to him with it, I said to him, it can be Thanksgiving, Christmas and New Year's rolled into one, the President isn't going to touch this case with a 10-foot pole, so don't count on that. It was like a laugh between us. And that was the end of it. It was never mentioned by anyone again.

Mr. SLATINSHEK. Since you mentioned the Executive clemency, may I read into the record the statement made by Mr. McCord on this general subject. It has reference to a meeting he allegedly had with you at the Colonial Restaurant. Let me read it.

Mr. McCORD. Certainly. I can give you concrete events that would have been an early meeting in October, 1972, when Alch, Gerald Alch, my attorney, met me at the Colonial Restaurant, 1820 M Street in Washington, at that time presumably to discuss my defense. His opening comments were, "I spent the morning with Bittman. Nobody is to get up on that stand."

So this is a very interesting opening comment to begin conversations with your own lawyer about.

And then he follows that with a statement:

Men are going to be offered protective clemency and protection of the families. You are going to be offered Executive clemency and support for your family while in jail. And rehabilitation when you get out. All accompanied by the first statement "Nobody gets up on the stand when the trial comes up." This I will say was the specific overt concrete act which convinced me then my impression of the preceding months were exactly right that the whole effort was a coverup effort. They are going to try to keep the defendants silent and send them off to jail in order to protect the higherups—Dean and Mitchell, and whoever else might be involved.

Mr. ALCH. My response is as simple and categorically as I can make it, it is simply not true. I never made an arrangement with him in a restaurant per se. What I would do is—and now you see my closeness

with my client is being thrown back at me—every time I come to Washington to meet with defense counsel, I would say to him, “I am coming in; can you meet me after the meeting and I will brief you on it?” So it wasn’t a meeting per se; it was like a prearrangement after the meeting with the defense counsel. I never told him no one gets up on the stand, because indeed—

Mr. NEDZI. Did you meet him at the Colonial Restaurant?

Mr. ALCH. I don’t know where the Colonial Restaurant is. I met him at a coffeeshop or bar.

Mr. NEDZI. There was a meeting?

Mr. ALCH. If there was a meeting, in the sense that every time I would have a meeting with lawyers, I made it a point not to just get back on the plane and go home. I want to keep them abreast of things. And I never told him not to get on the stand. On the contrary, our plan was for him to testify, and that is why, when Judge Sirica rules out the duress theory, I made an offer of proof and said to the judge, “If allowed, if you hadn’t ruled this out, here is what McCord would have testified.” That is on the record.

Mr. NEDZI. Did Bittman ever say, “Nobody is going to get up on that stand?”

Mr. ALCH. Not to me.

Mr. NEDZI. Did they talk about their own strategy as being the one of not having the defendants testify?

Mr. ALCH. No. Because it was right around the time that Mrs. Hunt got killed that at one of the meetings Bittman said that his client was not going to go to trial under any circumstances, because of his emotional reaction to it.

Mr. BRAY. Who is this by?

Mr. ALCH. Mr. Bittman, after Mrs. Hunt had been killed.

Mr. BRAY. He represented Hunt?

Mr. ALCH. Yes, sir.

Mr. NEDZI. In these conversations with the other attorneys on strategy, what form of strategy were they going to employ in their defenses?

Mr. ALCH. I was never clear on that. And to this day I am not exactly clear, in all due respect to Mr. Margoulis, what his defense was other than to just try to point out on the record alleged errors during trial. His man didn’t take the stand. I don’t mean this to belittle him at all, but I never could fathom what his defense was.

Mr. NEDZI. When you discussed the strategy, people were talking about using the CIA, or it was suggested that they explore the possibility of the CIA being behind all of this.

Now, when that fell through the floor, wasn’t there any subsequent conversation about how they were going to defend the case?

Mr. ALCH. Mr. Chairman, with regard to any discussion of other defenses, it is my recollection that Mr. Rothblatt was—I don’t know if the word “toying” is right, but playing around with the idea of these men, his four defendants would—with a Bay of Pigs background being loyal soldiers, working to take steps regarding the infiltration of Cuban money to the Democratic Committee.

It stands out in my mind when he began his opening statement, although constantly interrupted by Judge Sirica, he was more or less founding in that vein, which to me was of no consequence because

it was not a legal defense. Obeying an unlawful order by a superior is not a legal defense.

Mr. NEDZI. Was that in the presence of Mr. McCord?

Mr. ALCH. No. Except the opening statement was, of course, but at this meeting Mr. McCord was not present.

Mr. NEDZI. Did he include that in the opening statement?

Mr. ALCH. Just about. It was getting toward it. Judge Sirica kept interrupting him. He started talking about these men—

Mr. NEDZI. This was at the time of trial?

Mr. ALCH. Opening statement. He kept saying these men are all good soldiers, first in line at the Bay of Pigs to protect their country, which would, you know, have led you to believe maybe he was going to go along in that defense. It never got off the ground, regardless of its merits or lack of merits, because his clients pleaded guilty.

Mr. NEDZI. On December 29—

Mr. BRAY. Mr. Chairman.

Did Judge Sirica allow that to be pursued throughout the opening statement?

Mr. ALCH. He kept constantly interrupting Mr. Rothblatt, and kept saying, look, that is argument, what is your defense? That is the purpose of an opening statement. Tell the jury what your defense is going to be? And frankly, Mr. Rothblatt faltered a bit and sat down with what appeared to me to be a most abbreviated opening statement.

Mr. NEDZI. Was this discussed among the attorneys prior to the trial?

Mr. ALCH. No.

Mr. NEDZI. It never was?

Mr. ALCH. I was the one, as far as I knew, I was the only one that had a defense made up. That is why I raised the question. I said, "There has been no talk about any defense. Here is mine."

Mr. NEDZI. Subsequently, you had another meeting in which you said that your client isn't interested, or doesn't agree with using the CIA as a defense?

Mr. ALCH. That is correct.

Mr. NEDZI. Another question arises in my mind, because on December 29, in the memo that McCord prepared at that time, he says that the second proposal then was that "I claim that the four Cubans and I cooked up the bugging operation on our own," which you know has some resemblance to the statement made by Mr. Rothblatt at the time of trial.

Mr. ALCH. Well, I can assure you, Mr. Chairman, that nothing like that—nothing that you could even draw that inference from was ever mentioned by me to Mr. McCord, nothing whatsoever. It had no applicability to him. It had nothing to do with the defense we had agreed upon. It simply was never the topic of conversation.

I will say this, that he did write to me and tell me that he, by reading the newspapers, concluded that all other defendants were going to make him the fall guy, and I took this to be a little paranoid on his part. I said to him, "I am reading the same papers you are; I don't see it." "There has been no indication to me," I would tell him, "that these other six codefendants are going to get up on the stand and say McCord is the leader."

It never happened. It was never discussed. It was never proposed. I don't know where he got it.

Mr. NEDZI. On the first day of the trial, Mr. Alch, did you indicate to Bittman that McCord was becoming upset with Hunt and the other defendants, reflect to him what you said here?

Mr. ALCH. Yes, it happened this way. I was concerned about the procedure Judge Sirica wanted to utilize with regard to Hunt's change of plea. The Government agreed they would accept the plea to three counts. This is what I learned after they discussed it with the judge. Judge Sirica said "The only plea I will even think of accepting is one to the entire indictment, and I will only entertain that and consider it after opening statements."

So I wanted to talk to Bittman, because I felt that this was grounds for a motion for mistrial which I made for the record when it happened, because I said since this issue of Hunt's change of plea came up before the trial, it should be resolved before the trial rather than have the jury see the sudden disappearance of a defendant after the opening statement by the government leading to the inference he threw the sponge in, so powerful was the Government's opening statement.

On the first day of the trial I told Bill I want to come down and talk to you about that. McCord, I and Shankman hailed a cab. Barker, out of nowhere, jumped in the cab. McCord said that I told him that Bittman wanted to see Barker. That is not true. I now know—I didn't know where Barker was going. He certainly didn't go up to Bittman's office. He was going up to Rothblatt's office, who had an office in the same building as Bittman. I didn't know that at the time.

In any event, he did not only not go to Bittman's office—he said I told him he was going to Bittman's office—when the cab let him off, sensing McCord's distress, I had him wait a while and let Barker go up alone. That is a fallacy. I said to McCord, there is a place across the street. Let's go over and have a drink. We had a drink, and went up to Bittman's office and said I want to talk to Bittman about the ramifications of the details of Hunt's change of plea. I think it is a grounds for mistrial if it is what I understand it to be.

We were to go to the hotel for a conference which was our daily custom. In that conversation when I was discussing with Bittman the ramifications of Hunt's plea, I brought up the fact McCord was being paranoid.

Mr. NEDZI. Did you use that word?

Mr. ALCH. Yes. One of the documents I submitted to Senator Ervin's committee was a letter with McCord's name, these articles saying they are making me the fall guy, it is predicted, a real spooky type of letter. It is as predicted they are making me the fall guy.

After Hunt's change of plea, I said to him "It seems inconsistent Hunt would want to plead guilty, and at the same time my client says he is going to point to him as the ringleader." It was inconsistent. After we discussed Hunt's change of plea, I said to Bill "My guy is paranoid, he thinks everybody is out to get him. It is obviously not the fact. Your man is about to plea."

At that point Bittman said to me "Well, tell him he is going to get a call from a friend." I said nothing. That has been a point of inquiry, why I didn't. I didn't because in the context of our conversation I surmised the call was going to be from Hunt to allay McCord's apprehension.

This happened in that context, talking about Hunt's change of plea. I said "You know, Bill, this is completely inconsistent with McCord telling me Hunt and the others are out to make him the fall guy." I went out and said to McCord "You are going to get a phone call from a friend of yours."

He said "OK" and that was it.

I thought it was going to come from Hunt to allay his suspicions because of the context in which it came up in my conversation with Bittman.

Mr. NEDZI. Did McCord ever report to you on the phone call?

Mr. ALCH. Not on the phone call per se, but he did say to me during the trial that he was meeting with someone by the name of "Caldwell"—I now know it is Caulfield. My recollection is he told me it was Caldwell. He would not tell me what it was about because he didn't want to get me involved.

So I said to him "Well, that is your prerogative."

What I did do was, I wanted to see whether or not McCord was going to alter or stray from my advice as a result of his meeting. Then I was on the lookout for that. It simply never happened.

Mr. NEDZI. Was McCord ever annoyed with the attorneys for the other defendants, Rothblatt and Margoulis? Did he express any such annoyance to you?

Mr. ALCH. If he was, he didn't express it to me.

Mr. NEDZI. He never conveyed any thing along those lines to them?

Mr. ALCH. He may have said something to me reflecting his dislike for Bittman. I don't know if I told Bittman that, I may have. I just don't recall. He certainly never said anything bad about Rothblatt or Margoulis, but he didn't like Bill Bittman and I wasn't sure why. I don't know if I said that to Bittman. I may have, I just don't remember.

Mr. BOB WILSON. May I ask a question, Mr. Chairman?

Mr. NEDZI. Certainly.

Mr. BOB WILSON. In Mr. McCord's memorandum to you of the 27th of July, on the last page he talks about the impermissibly intercepted conversations of McCord. Did he ever discuss this with you besides putting it in the memorandum?

Mr. ALCH. You mean the phone call to the embassy?

Mr. BOB WILSON. The phone call, this would be the official means of getting the fact?

Mr. ALCH. Absolutely. He said to me that he had made calls to foreign embassies, the Chilean Embassy and the Israeli Embassy both before he retained me and after he retained me. He said they were relevant to the case. He didn't go into any details. He said "I am convinced that the Government has surreptitiously tapped on these embassy phones and perhaps mine, and based on what is developing in the *Ellsberg* case, if we force the Government to be faced with a choice of either acknowledging that they tapped these embassies or dismissing my case to protect this tap, the secrecy of the tap, they will throw it out."

I was very unenthusiastic about it, but at his insistence, I had already made a motion in one of my pretrial motions for the Government to reveal any electronics surveillance, and they said none.

At his insistence I approached the bench and almost said apologetically to Judge Sirica "My client says they are making calls to the

embassy, they are relevant to this case, and if they were intercepted, I want to find out if the Government is using the interception against him or whether the illegally intercepted call was made and they would use that.

The judge turned to Silbert. Silbert said, "I know nothing about it." I asked the Justice Department about it, and they know nothing about it, it remains moot. I asked because Mr. McCord kept insisting.

Mr. NEDZI. You say you didn't go into the details. Why not?

Mr. ALCH. I asked him what were the phone calls about. He said they have to do with the case. I said, "What could the Chilean Embassy and Israeli Embassy have to do with the case?"

He said, "I am telling you they are relevant to the case." You know, this is not the first time that he was very, very cryptic with me. So I wasn't enthusiastic about it. But if you have a client who is insisting that it happened, the way I understand the law—

Mr. NEDZI. Couldn't you insist he tell you so you can make some assessment yourself as to whether it is relevant or not?

Mr. ALCH. I could have, but in point of fact did not, and told the judge that I did not, because the judge said to me, "What are these phone calls?"

I said, "All my client will tell me is that they had to do with the case. I don't know any more about them." I felt like a fool doing it. I was doing it at the urging of this client of mine.

Mr. BOB WILSON. Mr. Chairman. Didn't McCord say they had to do with the case? He said they had to do with some—they were calls made by some friends of his who had done that. He was obviously bluffing.

Mr. NEDZI. He had a legal theory.

Mr. ALCH. That is right.

Mr. BOB WILSON. All he wanted was to get the documents on record.

Mr. ALCH. He wanted the case dismissed. He thought this would effectuate that result.

Mr. NEDZI. Where you aware of this letter which he sent to Caulfield talking about every tree in the forest falling?

Mr. ALCH. No, sir.

Mr. NEDZI. Have you ever met Mr. Caulfield?

Mr. ALCH. Never. I have never spoken to him.

Mr. NEDZI. How about Mr. Ulasewicz?

Mr. ALCH. Never. I have never spoken to him.

Mr. NEDZI. Were you aware of a contact between McCord and Ulasewicz on January 10?

Mr. ALCH. Never. I didn't know a man by that name existed until he testified.

Mr. NEDZI. Apparently Mr. Dean has testified that on about the 10th of January, Mr. O'Brien told him that McCord was not cooperating with you. Did you inform O'Brien in this respect?

Mr. ALCH. No. I have an idea where he may have surmised it from two events that happened just in that time period. No. 1, I came back on December 26 and told other defense counsel that the CIA was not involved and my client would have no part in it. No. 2, on January 3, Mr. McCord had submitted a letter to Judge Sirica discharging me as his lawyer. It is surmise on my part, but I submit that could have led to the assumption by others that he was not cooperating with me.

Putting it in the context of my first meeting with Mr. O'Brien back months ago, and saying, "McCord wants me to tell you that he took a calculated risk and is prepared to face the consequences," with that as a beginning, the later two events, my mixing the CIA and being discharged temporarily by Mr. McCord, may have led to that conclusion.

Mr. NEDZI. You didn't tell this to O'Brien?

Mr. ALCH. That he was not cooperating with me?

Mr. NEDZI. Yes.

Mr. ALCH. No, sir.

Mr. NEDZI. Did you ever see O'Brien subsequent to that first meeting?

Mr. ALCH. No, sir. I think I may have seen him in court on the day that Odle and Magruder testified, but I didn't talk to him. I just saw him in the gallery.

Mr. NEDZI. At the meeting where you nixed the CIA, what was the reaction of the other counsel?

Mr. ALCH. There was silence.

Mr. NEDZI. Did you break up after that?

Mr. ALCH. No, we talked about other topics.

Mr. NEDZI. What were the other topics?

Mr. ALCH. Voir dire, questions for the jury, order of cross-examination.

Mr. NEDZI. Without any defense theory on their part?

Mr. ALCH. I wondered about it, but it wasn't my concern. I knew where I was going.

Mr. NEDZI. Did you meet at any time with Mr. Mitchell?

Mr. ALCH. Never in my life. I have never spoken to the man.

Mr. NEDZI. Do you know whether Mr. Bailey had ever talked to Mr. McCord?

Mr. ALCH. I know that he has.

Mr. NEDZI. He has?

Mr. ALCH. Oh, Mr. McCord. No, I am sorry, he has not, never has.

Mr. NEDZI. Who did you think I said?

Mr. ALCH. Mitchell.

Mr. NEDZI. Do you know anything about that conversation?

Mr. ALCH. With Mr. Mitchell?

Mr. NEDZI. Yes.

Mr. ALCH. Yes.

Mr. NEDZI. Please tell us.

Mr. ALCH. I submitted a statement to that effect to Professor Cox's staff. At one point toward the conclusion of the Government's case, Mr. Bailey told me he had a conversation with Mr. Mitchell, and told me that I think four or five topics were discussed. I was not privy to it. This is what Bailey tells me. Here is what he says was discussed.

No. 1, Mr. Mitchell wanted to thank him for preventing the publication in Gallery magazine, which Mr. Bailey was associated with, of an article which purported to be an interview between John Mitchell, his wife, and another lawyer on an Amtrak train, which the way I understand it, is secondhand, was a conversation over drinks, with the other lawyer submitting it as an article. I believe Mr. Bailey, at Mr. Mitchell's request, or for reasons of his own—I am just not clear—stopped the publication.

He told me Mr. Mitchell thanked him for this. Another thing he told me was Mr. Mitchell complained to him, Mr. Bailey, about statements that allegedly had been made by Henry Rothblatt to the press, and asked if Mr. Bailey could do anything about it. This is what Mr. Bailey tells me.

Three, Mr. Bailey told me that Mr. Mitchell told him, or asked him, one of the two, but the topic came up whether or not McCord was going to testify that he had personally met with Mitchell, and received direct instructions or authorization to break into the Watergate directly, personally from Mr. Mitchell.

Bailey says to me he said to Mitchell, Alch told me that McCord told Alch that it was Liddy who told him that Mitchell had authorized it as distinguished from firsthand information, and according to Lee, he said to Mitchell "We don't allow clients to get up on the stand and lie." I don't know whether there was another topic or not.

Mr. NEDZI. You said five. You named four.

Mr. ALCH. That is all that comes to mind. I think it was four.

Then I know he had a conversation with him after the trial in regard to Mr. Bailey's representing clients who claim to possess a large quantity of gold on an Army reservation and who wished to negotiate the sale to the Government. Mr. Bailey told me he called Mr. Mitchell for the purpose of meeting with someone at the White House, and I think Mr. Bailey did.

Mr. NEDZI. This meeting with Mr. Mitchell, or conversation with Mr. Mitchell took place when?

Mr. ALCH. The one I was talking about before?

Mr. NEDZI. Yes.

Mr. ALCH. I believe it was that the Government was getting to the point where they were going to rest their case.

Mr. NEDZI. Did you have any involvement at all in handling any support money that McCord may have received?

Mr. ALCH. Never. The only money I got was the fee which was received directly from Mr. McCord.

Mr. NEDZI. Were you ever given any messages in behalf of McCord by anybody else, for the Committee To Re-Elect the President?

Mr. ALCH. Regarding support money or anything like that?

Mr. NEDZI. Regarding anything. There were no messages sent to you?

Mr. ALCH. No.

Mr. NEDZI. Were there any anonymous telephone calls made to you with respect to Mr. McCord?

Mr. ALCH. Certainly not.

Mr. BOB WILSON. Mr. Chairman.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. I would like to go back again on this matter of the \$100,000 cash bail. When was that set?

Mr. ALCH. I believe it was set—

Mr. BOB WILSON. Right after the sentencing?

Mr. ALCH. The verdict came in late on Friday afternoon and they wouldn't hear my motion until I had filed it in writing and given the Government an opportunity to respond. To the best of my recollection, it was approximately a week after the verdict.

Mr. BOB WILSON. When was that?

Mr. ALCH. It would have been the end of February.

Mr. BOB WILSON. This year?

Mr. ALCH. Yes, sir.

Mr. BOB WILSON. You indicated you had sort of a hunch or feeling Fensterwald was involved in this matter before the time he said he was. He claims in the statement he was called in to help in raising the bail. That was his first interest. Obviously, he has a great political interest in it, I think.

Can you give us any idea or any conjecture as to your feeling as to why?

Mr. ALCH. One, when I watched television and saw and heard the testimony of Mr. Caulfield, he said that in one of his meetings with McCord the question of bail arose, and according to Caulfield he said to McCord "Maybe we can work out the bail through Alch," and according to Caulfield, McCord answered "I am negotiating with another lawyer, and maybe he can handle it."

Mr. BOB WILSON. When would that have been?

Mr. ALCH. It was obviously before the verdict because McCord was still on the street, before the trial was over.

Mr. BOB WILSON. That could have been after the bail problem?

Mr. ALCH. No, sir. It would have had to be before. It had to be before, because the trial wasn't over. The question of bail didn't come up until the trial was over and the verdict of guilty came in. When I heard that, I said what other lawyer was he negotiating with during the trial?

Mr. NEDZI. Can you think of anyone else with whom you have had contact besides those already mentioned, relative to Mr. McCord?

Mr. ALCH. I haven't had any.

Mr. NEDZI. Who is John McNalley?

Mr. ALCH. One of our investigators.

Mr. NEDZI. Did you have occasion to see this morning's New York Times?

Mr. ALCH. No, sir.

Mr. NEDZI. In it is an article which attributes to Henry Rothblatt a statement that his clients accepted offers of money and executive clemency in return for their guilty pleas. Is that news to you?

Mr. ALCH. Well, I don't know if it is a fact or not. I think I recall that rumor being printed at the time the Cuban-Americans, Mr. Rothblatt's clients, changed their plea to guilty. As to the source of it at that time, I don't recall. I certainly had no personal knowledge of it.

Mr. NEDZI. That question was never discussed in your presence?

Mr. ALCH. Never.

Mr. NEDZI. You had no knowledge whatsoever of any kind with respect to that?

Mr. ALCH. Except rumors I read about in the paper. No personal knowledge.

You see, Mr. Chairman, I don't know if outsider is the word, but I wasn't a Washington lawyer. I wasn't in Washington except when I made specific trips to come in for this case. I was really removed from what was going on in Washington.

Mr. NEDZI. Did Mr. Shankman reflect any information?

Mr. ALCH. No. His role really was—I don't like to use the word "subordinate," because it is disparaging, but he was simply a local

counsel who would receive the papers and had to be there to comply with the rule.

Mr. NEDZI. Did Mr. Bittman ever discuss with you any conversations with Mr. Colson about executive clemency?

Mr. ALCH. No, sir.

Mr. NEDZI. You have never spoken to Mr. Colson?

Mr. ALCH. I have never met the man in my life.

Mr. NEDZI. Was there anything unusual in your mind about Mr. Rothblatt representing four of the defendants?

Mr. ALCH. No, sir.

Mr. NEDZI. Have you any idea how he happened to represents these men?

Mr. ALCH. No, sir.

Mr. NEDZI. Mr. Alch, you mentioned in the document which you submitted to the committee that you had taken a polygraph test?

Mr. ALCH. Yes, sir, two tests, Mr. Chairman.

Mr. NEDZI. Can you clarify the statement which you made to Senator Inouye that it would be overstatement to say that a transcript as such is available?

Mr. ALCH. Yes. When he wrote me the letter asking for a transcript—I am not too up on polygraphs, this is the first time I really came up with it, and the first time I have taken the two. I asked Mr. Bailey, “Is there a transcript available?”

He said, “There is no transcript per se.” What the examiner can do is report his questions to me and my responses to him. There is no transcript in the sense of what is happening right now.

Mr. NEDZI. What has taken place besides the questions and answers?

Mr. ALCH. Instructions, for instance. The examiner will say, “I am going to ask you some questions. On one of them I want you to deliberately lie. When I ask you if your name is Jerry, I want you to tell me No.” He hands me a deck of cards and I pick out a card, and he says “I am going to go down one through ten. When I get to the number of the card you picked up, say No.” That type of stuff. I don’t think—I don’t know, there is no transcript, there is nothing being taken down as the test is run.

There is, of course, a reflection in an examiner’s report of the key questions that I was ultimately run on, but I don’t know, and I don’t think everything he said to me is taken down.

Mr. NEDZI. Have you ever been involved with using a polygraph?

Mr. ALCH. Never, and I hope I never have to again. It is a pretty terrifying experience, I tell you.

Mr. NEDZI. I am speaking as a lawyer. Did you have occasion to have them used on witnesses?

Mr. ALCH. The closest I came to it was a narcotics case I recently completed in Boston. The client was acquitted. He took a polygraph and we attempted to get it in evidence. I, knowing nothing about it, had Mr. Bailey come into the trial with his expert, just for the limited purpose of having the evidentiary hearing on the question of admissibility, then he left, and then I went on with the trial.

Mr. BOB WILSON. Did they admit it?

Mr. ALCH. They did.

Mr. NEDZI. Are you prepared to submit to a polygraph of some independent choosing?

Mr. ALCH. Certainly. The only qualification that I was advised should be put into it is that the examiner be accredited by the American Polygraph Association. That is advice given to me by Mr. Bailey so as to insure the quality of the examiner, which according to what I understand, is very important.

Mr. NEDZI. How many examiners are members of that association?

Mr. ALCH. Many. I was given two different tests by two different individuals, but the results were examined by a total of seven, and all seven concurred in the results of both tests.

Mr. NEDZI. I don't think it will serve any purpose for us to go into the validity of polygraph tests.

Do you have any questions, Mr. Chairman?

Mr. HÉBERT. No questions.

Mr. NEDZI. Mr. Hogan, do you have any questions?

Mr. HOGAN. Yes, sir, I have a couple, thank you, Mr. Chairman.

Mr. Alch, for the purposes of our record, I wish you would send to us the information on your meetings with Mr. McCord's pretrial.

Mr. ALCH. Right.

Mr. HOGAN. As best you can reconstruct them.

Mr. ALCH. Right.

Mr. HOGAN. And also, your meetings with attorneys, pretrial, the best you can reconstruct them. (See p. 790.)

As of now, how many pretrial meetings with the attorneys do you recall?

Mr. ALCH. Approximately three or four.

Mr. HOGAN. When do you recall the first meeting where the CIA involvement—alleged or possible involvement I should say, was mentioned?

Mr. ALCH. December 21, 1972.

Mr. HOGAN. That is the first and only time?

Mr. ALCH. Yes, sir. The second time is when I came back with Mr. McCord's negative response on January 3, 1972—excuse me, January 3, 1973.

Mr. HOGAN. Did Mr. McCord ever suggest a belief or a possibility that the funds for lawyers' fees and support might come from the CIA?

Mr. ALCH. Never.

Mr. HOGAN. Did he ever suggest to you that Howard Hunt was pressing for a CIA involvement in the Watergate operation?

Mr. ALCH. Never.

Mr. HOGAN. Was Mr. Bittman's conclusions as a result of that December 21 meeting that there was a possibility of CIA involvement from what he knew?

Mr. ALCH. I would have to put it this way, Mr. Hogan. It was concluded that there at least existed enough of a theory of substance to warrant each lawyer asking his clients. That is the best way I can put it.

Mr. HOGAN. Was Mr. Martinez mentioned at that meeting by Mr. Bittman?

Mr. ALCH. I don't recall the name. If he was one of the defendants, he would have been alluded to in the statement that all defendants had former CIA background. Otherwise I don't recall a reference.

Mr. HOGAN. The possibility here is a current CIA background?

Mr. ALCH. Not to my knowledge. I don't recall anything of that sort.

Mr. HOGAN. Did Mr. McCord make available to you a letter dated on or about December 6, 1972, addressed to Mr. Hunt, concerning the Barker and the Cuban involvement?

Mr. ALCH. He did not.

Mr. HOGAN. Did he ever discuss it with you?

Mr. ALCH. He did not.

Mr. HOGAN. At the time that he—at any time that he paid you, was making payments on his fees, did he suggest where the money was coming from?

Mr. ALCH. He did not, but as I say, as I read in the newspapers about \$100 bills all over the place, I surmised the ultimate source.

Mr. HOGAN. Was there a discussion about the propriety of any money that he had, and your telling him, "You are a fool not to take it"? Did you ever make such a statement to him?

Mr. ALCH. As to money he gave me?

Mr. HOGAN. As to money that was being furnished.

Mr. ALCH. I have no recollection of that. Every time he gave me money, it was never any lump sum payments. As I said, he didn't adhere to the original agreement.

It was my impression, at least what he told me, he was having difficulty coming up with the money he agreed to pay me.

Mr. HOGAN. But in any context, as far as where money was coming from, did you ever make a statement to the effect "You would be a fool not to take it"?

Mr. ALCH. There may have been one context, and here is what it was: He claimed that there was a bill outstanding to McCord Associates for work done by that organization, that corporation, for the Committee to Re-Elect the President, and I recall a conversation wherein he asked me whether or not he should submit the bill? This was during the trial, I believe, and I said to him "It is legitimate work?" and he said "Yes, absolutely, it is an outstanding bill which was accrued before the Watergate incident."

I said "Well, go ahead and submit it." Whether he did, and if he did, whether he got paid, I don't know.

Mr. HOGAN. Was there ever a statement made by you to the effect that it was the theory of defense to put all the defendants behind bars?

Mr. ALCH. Absolutely not.

Mr. HOGAN. At the time of the December 21 meeting, was the CIA question one that you presented to him as a question?

Mr. ALCH. Yes, sir.

Mr. HOGAN. Did you ever say "We have decided there is some decision that we are going to make CIA involvement a defense"?

Mr. ALCH. No, because there had been no decision.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. You made reference to the letter that McCord wrote to the judge, and you said except for the next to the last paragraph, "which I cherish," I assume that I have not discussed with my attorneys as a matter of protecting them. Is that what you referred to when you said "I cherish this"?

Mr. ALCH. Yes, and I would also put emphasis on his paragraph on page 2, which I think directly——

Mr. BOB WILSON. In which he said “my motivations were different——

Mr. ALCH. That is correct.

Mr. BOB WILSON [continuing]. “Than those of the others.” Did you notice in the last sentence of that particular paragraph, “This is no fault of my attorney, but of the circumstances under which we had to prepare my defense.” Do you think he might have been implying some other attorney than yourself preparing his defense?

Mr. ALCH. I honestly don’t know. It is possible, but I just don’t know. It is possible if he was in contact or receiving advice from someone else unbeknownst to me.

Mr. BOB WILSON. Do you have a feeling or hunch on something maybe Mr. Fensterwald helped him prepare this letter to Judge Sirica and make a plea?

Mr. ALCH. I have more than a hunch. Fensterwald told me “We dropped that bomb on you,” and Fensterwald being in court that day, saying to him in a hushed tone, “You can use my office after this is over,” and Fensterwald said “The only thing I regret is pulling this surprise on Jerry.” Fensterwald said “Sorry, ——, let it all hang out.”

Mr. BOB WILSON. Thank you.

Mr. NEDZI. Just to get back to December 29, I note in Mr. Shankman’s statement he also says that on Friday, December 29, McCord came into his office stating that he had talked with you on Tuesday. “He showed me a typewritten copy of a statement and said he was not going along with any steps involving the CIA, and he would not allow anyone to attack the CIA.”

That is what continues to be a puzzle in my mind, why he would go through this kind of exercise, following putting to bed this kind of problem, according to your testimony——

[The following information was received for the record:]

STATEMENT OF BERNARD SHANKMAN

Pursuant to a telephone call from James Hamilton, Assistant Chief of Senator Ervin's Investigation Committee, I met with Eugene Boyce, Assistant Counsel and Robert Silverstein, Assistant Minority Counsel for the Senate Investigation Committee. Attorney Boyce procured from Mr. James W. McCord, Jr. a Release of Attorney/Client Privilege between Mr. McCord and myself dated May 23, 1973.

My name is Bernard Shankman and I am an attorney licensed to practice before the Courts of the District of Columbia and have been in private practice since 1937, maintaining an office at 1511 "K" Street, N.W., Washington, D.C.

In the early part of July, 1972 I was retained by the law firm of F. Lee Bailey as local counsel for that firm in its representation of Mr. James W. McCord, Jr., in the U.S. District Court for the District of Columbia. In that capacity it was my principal function to attend formal court proceedings and to maintain liaison on behalf of Mr. Gerald Alch with the Court and, on occasion, his client, in the absence of Mr. Alch from the City. While the formulation and handling of the defense was directed and performed by Mr. Alch. I was periodically in attendance with Mr. Alch and Mr. McCord at conferences concerning the defense.

On December 21, 1972 I was present with Mr. Gerald Alch and Mr. James W. McCord, Jr. at the Monocle Restaurant.

It is my recollection that Mr. Alch told Mr. McCord that he had just come from Mr. Bittman's Office where a discussion occurred among the defense attorneys and someone at the meeting

suggested that perhaps the C.I.A. might be involved in the Water-gate Operation. Mr. McCord became agitated and stated that he was in the C.I.A. for 19 years and the C.I.A. was good to him, and Helms was a good man and was removed and Schlesinger was appointed to do a "hatchet job" on the C.I.A.

Mr. McCord's further response to Mr. Alch's question was if Mr. Helms or officials were subpoenaed they would not comply or testify. It was then that Mr. Alch stated that Mr. Victor Marchetti who was writing a book about the C.I.A. could be contacted to explain the operations of the C.I.A. and Mr. McCord said Mr. Marchetti was not in the good graces of the C.I.A.

I heard no statement made by Mr. Alch to Mr. McCord, nor did I make any statement to the effect that records could be doctored so as to record Mr. McCord's recall from retirement; nor did I hear a statement made by Mr. Alch that Mr. Schlesinger would go along with the aforesaid suggestion.

I do not recall any discussion concerning Mr. Bittenbender at the Monocle Restaurant.

On Friday, December 29, 1972 Mr. McCord came into my office and advised me that he had talked with Mr. Alch on Tuesday, December 26, 1972 in Boston, and showed me a typewritten copy of a statement announcing the release of Mr. Alch as his attorney, and stating therein that he was not going along with any steps involving the C.I.A. and that he would not allow anyone to attack the C.I.A.

I read the proposed release. I told him that I felt that Mr. Alch was an able lawyer and was concerned only as to McCord's best interests and Mr. Alch was doing the best job possible for Mr. McCord under the circumstances.

That as a lawyer representing his client he had to probe and suggest certain defenses to his client as areas of consideration and Mr. McCord could either accept or reject them. He tore the release up and stated that he would hold off talking to Mr. Alch for a few days and would contact him later.

I called Mr. Alch and advised him of my conversation with Mr. McCord on December 29, 1973 and suggested that he call Mr. McCord and he told me that he would call him and that he would be in Washington on Wednesday, January 3, 1973 at 9:15 A.M. via Delta on Flight #205

Later that day Mr. Alch called me and advised me that he could not reach Mr. McCord via telephone and asked me to reach him.

Pursuant to Mr. Alch's request I called Mr. McCord several times that evening and in my last call I left a message with Mrs. McCord that I would like to meet with Mr. McCord in my office on Tuesday, January 2, 1973 at 8:00 A.M.

On Tuesday, January 2, 1973 I called Mrs. McCord who advised me that Mr. McCord was on his way to see me. At 8:30 that morning I bumped into Mr. McCord in the lobby of the Investment Building. I told him that I was on my way to pick up Mr. Alch and I asked him if he wanted to go along and he said no. He asked me what time would I return and I said about 9:30 A.M. and he said that he would be back.

When I arrived at the Airport and Mr. Alch did not arrive on the plane from Boston, I discovered my error. Mr. Alch was to arrive on Wednesday, January 3, 1973 and not on Tuesday, January 2, 1973 as I thought.

When I returned to my office I was handed a letter dated January 1, 1973, typed on James W. McCord, Jr. stationery, addressed to Mr. Gerald Alch, No. 1 Center Plaza, Boston, Massachusetts, stating as follows:

Dear Mr. Alch:

This is to release you as my attorney as of today.

Subsequent communications will request transfer of appropriate records out of the Watergate Hearings and case to date to the attorney who will be handling this matter for me.

Very truly yours,

(signed) James W. McCord, Jr.

My secretary then stated that Mr. McCord had had her make two copies of the letter and ^{that} Mr. McCord had stated that I could reach him at Chief Judge Sirica's Chambers. I then called Mr. Alch and advised him of the letter and the fact that Mr. McCord could be reached at Chief Judge Sirica's Chambers..

Mr. Alch called me back later and advised me that the release letter was in but Chief Judge Sirica had informed him that he (Alch) was still in the case and this case would not be continued because of the release of Mr. Alch as attorney.

On January 3, 1973, when I picked up Mr. Alch at the Airport I handed him a copy of Mr. McCord's letter of release.

It is to be noted that the statement herein above by me is in response to questions submitted by Attorney Eugene Boyce of the Senate Investigation Committee.

Respectfully submitted,


Bernard Shankman, Esquire

DATED: May 24th, 1973

Mr. ALCH. It is a puzzle to me for this reason——

Mr. NEDZI. On the 26th meeting.

Mr. ALCH. It is a puzzle to me for two reasons; why he went to Shankman with it, because I was his chief counsel or lawyer for all practical purposes; why he didn't advise me of it. This is the period when he wasn't answering my phone calls. That is exactly my reaction. I used those exact words to Mr. Shankman on the telephone when he told me about it. I said "Barney, this was laid to rest at the December 26 meeting which ended on a most cordial note."

I must confess I share your bewilderment at it.

Mr. NEDZI. Did you know anybody by the name of Lou Russell?

Mr. ALCH. Yes, sir.

Mr. NEDZI. Who is he?

Mr. ALCH. He was introduced to me by Mr. McCord as a potential character witness. I interviewed him when the time came to put on character witnesses, and elected not to call him.

Mr. NEDZI. Why not?

Mr. ALCH. I didn't like the way his background sounded to me.

Mr. NEDZI. What kind of background did he have?

Mr. ALCH. Not a very stable one. He didn't look impressive, and his background seemed to be kind of a mysterious one involving periods of unemployment, et cetera, et cetera, and by contrast to the other witnesses Mr. McCord presented to me as character witnesses, nuns, priests, you know, I said I don't need this guy.

Mr. NEDZI. Mr. Alch, do you know anything about what he does now?

Mr. ALCH. Russell?

Mr. NEDZI. Yes.

Mr. ALCH. Nothing. The only time his name was ever mentioned after meeting with him is when Mr. McCord—it was the night before sentencing. I came into Washington, met with Fensterwald and McCord in my hotel room. McCord was in a very uptight state, banging his fists down on my suitcase, referring to the press as "those bastards," referring to the Republican campaign members of the Select Senate Committee as "those bastards" for leaking out his executive session discussions with him.

At that point Fensterwald said "The reporters have been asking me about whether or not you, Jim, and I have had any prior business connection, and I told them that we did." So when he said that, McCord looked up with a look of bewilderment as if to say "What are you talking about?" Fensterwald said "You remember those checks that Russell brought from you to me that I deposited or cashed in the Committee To Investigate Assassinations?"—I didn't know what he was talking about, but this is what he said, and McCord said "Oh, yes, yes, that is right."

That is the only time I heard the name—I mean after the meeting with him.

Mr. NEDZI. When you interviewed him, did you ask him what he was doing?

Mr. ALCH. Yes; and I don't remember his exact response, but to me as a lawyer, it would not have scored many points with the jury.

Mr. NEDZI. He wasn't a businessman?

Mr. ALCH. No; and at that point I assure you I would have grabbed anybody I could to put on the stand without hurting my cause.

Mr. NEDZI. Mr. Alch, we want to thank you on behalf of the committee.

Mr. HOGAN. I have one more question, if I may, Mr. Chairman.

Mr. Alch, at the 26th meeting in Boston, what precisely took place during that hour and a half, I believe you said—it was 10:30 to 12 o'clock?

Mr. ALCH. Two hours at the most. It was a question again of the discussion of the duress thing, what we were going to do with the Baldwin disclosures to the Los Angeles Times. He was vehement in telling me that the CIA was not involved and he would have no part of it.

Mr. HOGAN. What was your final statement to him with regard to that matter?

Mr. ALCH. In accordance—he ended it up by saying “I want you to tell that to the other defense lawyers,” and I said, I will.

That ended it as far as I was concerned, and I did, on January 3, 1973.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. NEDZI. Mr. Slatinshek?

Mr. SLATINSHEK. No questions.

Mr. NEDZI. Mr. Alch, we want to thank you on behalf of the subcommittee. It has been a long morning. I wish you a good lunch and express our appreciation, and good luck with your future clients.

Mr. ALCH. I want to thank you all for your courtesy. It has been pleasant, under the circumstances.

Mr. BRAY. This committee doesn't try to cut people up.

Mr. ALCH. That is obvious.

Mr. NEDZI. The committee will stand recessed until further call of the Chair.

[Mr. Alch supplied the following material for the record:]

[Whereupon, at 1:26 p.m. the subcommittee recessed, subject to call of the Chair.]

BAILEY, ALCH & GILLIS

ATTORNEYS AT LAW

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JOHN R. TRUMAN (MISSOURI BAR)

WILLIAM G. MANNING
ADMINISTRATOR

EUROPEAN OFFICE
VIA VENETO 146
ROME, ITALY 00187

July 17, 1973

William H. Hogan, Jr., Counsel
House Armed Services Committee
Room 2120, Rayburn Office Building
Washington, D. C. 20515

Dear Mr. Hogan:

Please find enclosed the statement you requested during my appearance before the Committee on July 13, 1973. In addition, I enclose a copy (with attachments) of my statement to the Select Senate Committee.

Would you please extend my most sincere gratitude to Chairman Nedzi and the members of the Committee for their courtesy extended to me last Friday.

Please advise if any further information is desired.

Very truly yours,



GERALD ALCH

GA/pmd
Enclosure

Copy of this letter sent to all
Subcommittee Members per Mr. Hogan
July 23, 1973 emb

STATEMENT OF GERALD ALCH

This statement codifies my best recollection of pre-trial meetings with Mr. McCord and with other defense counsel. Wherever possible, I shall refer to precise dates, in the absence of which I shall rely upon my best recollection with reference to approximate time periods.

I. MEETINGS WITH MR. McCORD PRIOR
TO COMMENCEMENT OF TRIAL

I was retained by Mr. McCord at my office in Boston, Massachusetts, during the last week of June or the first days of July in 1972. My first trip to Washington was on July 5, 1972, and I believe it was on this date that I met, pursuant to Mr. McCord's direction, with Mr. Paul O'Brien. I relayed to him the position of Mr. McCord as made known to me during our first meeting in Boston. Incidentally, I attach hereto as Exhibit "A" a copy of a discovery material document provided to me by the Government prior to trial. This document reflects statements made by Mr. McCord to Metropolitan Police Officer Garey M. Bittenbender, which were similar, if not identical, to his statements to me during our first meeting.

On July 6, 1972, I represented Mr. McCord in a Preliminary Hearing before the Honorable Harry T. Alexander, Associate Judge of the Superior Court of the District of Columbia. This was prior to the promulgation of a Federal indictment and I attempted to utilize said hearing, as best I could, for discovery purposes.

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I next represented Mr. McCord before the Federal Grand Jury in Washington, D. C. Subsequently, I returned to Washington to represent Mr. McCord's wife and daughter who had also been subpoenaed to appear before this same Federal Grand Jury. One of these trips to Washington may have occurred on July 18, 1972. On December 4, 1972 there was a pre-trial conference before Chief Judge Sirica. I was on trial elsewhere and my associate, John Albert Johnson, Esquire appeared on behalf of Mr. McCord along with local counsel Bernard Shankman, Esquire. I did appear before Chief Judge Sirica on December 19, 1972 for hearing of motions of the Los Angeles Times and Times Mirror, Inc. to Quash Subpoena. Mr. McCord has stated that the "Monocle Restaurant Meeting" occurred on December 21, 1972. My records reflect a bill paid to the Monocle on December 20, 1972. In any event I cannot recall whether I remained in Washington following my appearance before the Court on December 19, 1972 or whether I returned to Boston and again flew to Washington on December 20, or 21, 1972.

I met with Mr. McCord in Boston, Massachusetts on December 26, 1972. He arrived in my office at approximately 11 a.m. and at approximately 12:30 p.m. on that day, Mr. McCord and I, along with two of my associates, went to lunch and from there, directly to the airport where Mr. McCord boarded a plane back to Washington. The luncheon was most cordial and I recall

- 3 -

Mr. McCord proposing a "Good Luck Toast" regarding his upcoming trial and expressing his complete confidence in his legal representation. This attitude, completely inconsistent with his present description of my having "pressured" him regarding the CIA that morning, can be verified by those individuals who attended the luncheon, should this Committee so request.

I again journeyed to Washington on January 3, 1973 and it was on this date that Mr. McCord rescinded, in open court, his letter dismissing me as counsel. It was also on this date that I met with defense counsel and advised them of Mr. McCord's negative position regarding the involvement of the CIA.

I cannot state with certainty that there were no other pre-trial meetings between Mr. McCord and I--there may have been--I simply have no recollection of them. I wish to emphasize that during this pre-trial period, beginning with my first meeting with Mr. McCord, my time was spent on pre-trial matters (i.e., pre-trial motions, suggestions for picking jury, etc.) as well as formulating our agreed-upon defense of "duress".

I respectfully invite the Committee's attention to paragraph III. hereinafter set forth, reflecting what my records indicate with regard to my traveling to Washington, D. C. prior to January 8, 1973, the date upon which trial commenced.

- 4 -

II. MEETINGS WITH DEFENSE COUNSEL
PRIOR TO COMMENCEMENT OF TRIAL

To the best of my recollection, I met with other defense counsel at the office of William O. Bittman, Esquire, approximately three or four times prior to trial. These meetings were devoted to assignment of subjects to each lawyer for pre-trial motions, discussions of potential trial dates, methods to be suggested for jury picking, etc. At least one of these meetings was attended by my associate, Mr. Johnson, on October 24, 1972, as a result of my being legally engaged elsewhere.

I recall that on the meeting of December 20 or 21, 1972, I announced my proposed defense of "duress" and it was at this meeting that the question was raised as to whether or not the CIA had been involved in the Watergate break-in. It was on January 3, 1973 that I advised other counsel, pursuant to my meeting with Mr. McCord on December 26, 1972 that Mr. McCord strongly asserted that the CIA was not, in fact, involved and would have no part in any defense based upon that theory. I regret that I cannot be more specific as to the dates of other pre-trial meetings with defense counsel.

III. AIR TRAVEL TO WASHINGTON PRIOR
TO JANUARY 8, 1973

My expense records reflect the following air travel to Washington, D. C. prior to trial:

- 5 -

July 5, 1972 (Alch)

July 18, 1972 (Alch)

October 9, 1972 (Alch)

October 24, 1972 (Johnson)

December 4, 1972 (Johnson)

December 19, 1972 (Alch)

January 3, 1973 (Alch)

January 5, 1973 (Alch)

* * * * *

I stand ready, willing and able to comply
with any further requests which this Honorable Committee
may have.

Respectfully submitted,

Gerald Alch

GERALD ALCH

"A"

UNITED STATES DEPARTMENT OF JUSTICE
FEDERAL BUREAU OF INVESTIGATION

WASHINGTON, D.C. 20535
November 20, 1972

IN REPLY, PLEASE REFER TO
EJS/ab

TO: DIRECTOR, FBI
FROM: SAC, BOSTON
SUBJECT: BOSTON OFFICE, NOVEMBER 17, 1972
RE: BOSTON OFFICE, NOVEMBER 17, 1972

George A. Lech, Jr.
One Center Plaza
Boston, Massachusetts 02108

Re: United States v. Liddy, et al.,
Criminal Case No. 1027-72

Dear Mr. Lech:

Pursuant to Rule 16(a)(1) of the Federal Rules of Criminal Procedure, the following information is being made available to you:

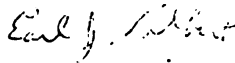
On June 17, 1972, prior to his presentment to Court and while in the cell block of the Superior Court and following his presentment in Court, James W. McCord, Jr. made oral statements to Garey M. Bittendener of the Metropolitan Police Department which were, in substance, that he was sorry, he had taken a calculated risk and had gotten caught. Furthermore, he stated that the job was only something the participants had decided on doing and there was not anyone else involved. Mr. McCord also stated

-2-

that all the others involved were old friends of his and were very good in their trade. He was not a police CIA man who have families in and out of the CIA. Finally, When asked if he had known E. Howard Hunt, he stated in substance that the name has been heard of.

Also enclosed is a copy of the grand testimony of Mr. McCord and the reports of scientific examinations made in this case.

Sincerely,



Earl J. Silbert
Principal Assistant
United States Attorney

cc. Shankman, Esquire

~~CONFIDENTIAL~~
~~CONFIDENTIAL~~

In all candor, I am about to testify with a certain degree of regret. This is because those areas to which I shall address myself are areas which I, as a criminal defense attorney believe to be somewhat sacred. They reflect conversation between a lawyer and his client, uttered in the course of a relationship wherein I was exerting my best efforts to protect the interest and welfare of James W. McCord. I take most seriously the well established attorney/client privilege. Nevertheless, in my judgement, Mr. McCord, in his testimony before this honorable committee on Friday, May 18, 1973 and in other prior disclosures, both written and oral, has waived such privilege which I have been informed he has acknowledged. Mr. McCord has made allegations concerning my conduct in the defense of his liberty. These allegations are, in some instances, completely false and in other instances, have been twisted out of context into untruths, presumably to serve his present purpose, whatever that may be, but which impugn my personal standards of ethical and legal behavior. I believe it to now be my duty and responsibility to respond and I have accordingly accepted the invitation of this honorable committee so to do for which I am grateful. Here then, is a true narrative of my representation of Mr. McCord.

In July of 1972, my office received a telephone call from Mr. McCord requesting an appointment. On a Saturday morning during that month, I met with him for the first time. He identified himself as one of those arrested in the Watergate building on June 17, 1972. He told me that he had taken a calculated risk in doing what he did and was prepared to face the consequences. Within that framework, however, he indicated he wanted the most effective legal representation possible and

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asked whether or not my partner, Attorney F. Lee Bailey, would be interested in representing him. I told him that I had advised Mr. Bailey of my appointment with him and that he, Mr. Bailey, was not interested in representing any defendants in the case. Mr. McCord told me that as a result of his impression of me, he desired my counsel. A fee of \$25,000.00 plus expenses was quoted and agreed upon by Mr. McCord. Arrangements were made for the payment of this fee over a period of time, which arrangements were ultimately met by Mr. McCord, although over a longer period of time than originally agreed upon. I asked Mr. McCord to give me specific details attending the Watergate break-in, but he specifically declined so to do except to state his personal motivation, i.e., the protection of others. I explained to him that since he had been physically apprehended in the Watergate complex, he could obviously not deny that fact and inquired as to his motivation in so acting. He told me that as Chief of Security for the Committee to Re-elect the President, he had received information to the effect that various anti-war demonstrations by groups which he described as "radical" were being planned for the upcoming presidential election and that these demonstrations had, in the past and would invariably in the future, lead to violence or the threat thereof to various prominent Republican Officials, including, but not limited to members of the Committee to Re-elect the President and including, but not limited to the President of the United States. I told him that I would explore whether or not this motivation could, in any way, be embraced by a recognized legal defense. He told me that he wished me to come to Washington, D.C. and meet with an attorney by the name of Paul O'Brien, whom he described as one of the counsel to his employer,

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the Committee to Re-elect the President. He desired that I contact Mr. C'Brien and advise him of his (Mr. McCord's) position.

Shortly thereafter, I travelled to the capital and telephoned Mr. C'Brien for an appointment. Mr. McCord drove me to Mr. C'Brien's office, whereupon I met with Mr. C'Brien and a gentleman introduced to me as Mr. Kenneth Parkinson. I introduced myself, told Mr. C'Brien I had been retained to represent Mr. McCord and was here at his direction to inform him, as a representative of Mr. McCord's employer, that Mr. McCord was, as he had told me, prepared to face the consequences of his acts. Mr. C'Brien and I exchanged office telephone numbers and the meeting which had lasted for approximately fifteen minutes, terminated.

My first official act on behalf of Mr. McCord was to represent him at a pre-trial indictment probable cause hearing before a Superior Court Judge in the District of Columbia. All other defendants had waived such a hearing, but I decided to utilize it, as best I could, for discovery purposes. Mr. McCord was most impressed with my in-court presentation and told me so. I subsequently accompanied him, his wife, and daughter before the Federal Grand Jury. At one point, prior to indictment, I was advised by the prosecutors, Mr. Earl Silbert and Mr. Seymour Glensner that they possessed independent evidence that equipment utilized in the monitoring of telephone conversations from the office of the National Democratic Committee had been delivered to Mr. McCord's home in the presence of Mr. McCord's wife on the night of June 17, 1972. They advised me of the possibility of Mr. McCord's wife being indicted as an accessory after the fact, but indicated this would not be done if the equipment was produced. I discussed this with Mr. McCord and he requested me to

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= work out the best arrangement possible, but to do anything and everything to protect his wife whom he said had no involvement in his activities. Accordingly, an arrangement was agreed upon with the prosecutors, whereby the equipment was surrendered to them with the agreement that they would not divulge, during trial, the fact that this particular equipment was obtained from Mr. McCord. Mrs. McCord was not indicted and the Government kept its word with regard to the manner in which said equipment was introduced during trial.

In the ensuing weeks and months, during my many contacts with Mr. McCord, he continuously insisted that his only purpose in participating in the Watergate break-in was to protect his employers and other Republican officials from threats of violence. He would, almost daily, send to me clippings from various newspapers published throughout the country, reflecting reports of anti-war group activities which in some instances involved violence. In fact, at one point, he sent to me a typed memorandum reflecting this alleged motivation for his conduct which memorandum included various legal citations of law, which he believed to be in support of the defense he wished me to present. I have made available to this honorable committee copies of three such memorandums, accompanied by a handwritten note from Mr. McCord which reads as follows: (read note). I do this to emphasize this fact: that Mr. McCord was from the beginning, in complete agreement with the defense ultimately presented in his behalf. At no time, did he ever state to me that he believed the Watergate "Operation" to be legal as a result of the alleged involvement of the then Attorney General, the counsel to the President, or anyone else. As a matter of fact, during one of my many conversations with Mr. McCord on this subject, I told him that my legal research revealed that

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perpetrator not know he was breaking the law. I said to Mr. McCord, "No jury will ever believe that a man with your background with the FBI and the CIA would not realize he was breaking the law in breaking into an office at night, wearing surgical gloves and armed with eavesdropping equipment." He laughed and agreed that such a contention was in fact, legally untenable. I further explained that the reason for his actions, as he had explained them to me, would be more properly embraced by the legal defense of "duress," wherein the perpetrator felt compelled to break a law in order to prevent a greater evil. Mr. McCord had explained to me his belief of a direct relationship between these potentially violent anti-war groups and the Democratic party and that his participation in the Watergate burglary was accomplished in the hope of obtaining advance evidence of planned potentially violent demonstrations.

I advised that the law of "duress" allowed for the perpetrator to possess criminal intent, that is, to know that he was breaking the law and that therefore, based upon what he had told me with regard to his own motivation, this defense was not only compatible therewith, but in my opinion, constituted the only defense available. Mr. McCord wholeheartedly agreed. And I commenced to prepare the case on this basis.

I also received from Mr. McCord, an outline of a proposed book he was in the process of writing entitled Counter Espionage Agent for the Republicans -- The True Story of the Watergate Case, copies of this outline have also been provided to this honorable committee. In this regard, on September 19, 1972, one of my associates, John Albert Johnson, appeared with Mr.

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McCord for arraignment before Chief Judge Sirica, since I had a court commitment in another state. Mr. McCord told Mr. Johnson that he was in the process of writing a book and desired our opinion as to whether he could have this book published prior to election day. He told Mr. Johnson that he felt that any publication after presidential election day would not be worthwhile monetarily. Mr. Johnson reduced this conversation to a file memorandum, copies of which have been presented to this honorable committee. When Mr. Johnson advised me of this, I told Mr. McCord that in my opinion, no such publication should be contemplated prior to trial. Mr. McCord, reluctantly it appeared to me, agreed to follow my advice.

There were other memoranda that I received from time to time from Mr. McCord which suggested for consideration other potential defense material which I rejected. One such memorandum, copies of which have been provided to this honorable committee, listed and discussed such topics as "the mafia and Democratic National Committee funds and personnel"; "flying tigers and Anna Chencelt"; "Israel and the Mafia". Said memorandum also mentioned names of other individuals and law firms which names I choose not to bandy about in this public hearing.

On several occasions, Mr. McCord told me that he was convinced there existed a concerted effort on the part of his co-defendants and their counsel to make him the "fall guy" of the Watergate operation. On one particular occasion, he mailed to me a memorandum, copies of which have been provided, reflecting his belief. Said memorandum reads as follows: (Lead memorandum).

I advised Mr. McCord that I had kept abreast of newspaper coverage of the Watergate incident and that in all

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honesty, could discern no effort on anyone's part to foist upon him prime responsibility for the offenses charged. He disagreed with me and I told him that I would subsequently discuss the matter with other defense counsel.

At another time prior to January, 1973, Mr. McCord advised that he had made telephone calls to the Israeli Embassy on September 19, 1972 and to the Chilean Embassy on October 10, 1972. He did not divulge the contents of these telephone conversations. He explained his purpose as follows:

He told me he was convinced that the Government had telephone taps on the phones of these Embassies, but would not admit to such activity. He was certain that his calls had been intercepted. He instructed that I make a motion in court requiring the Government to disclose any and all intercepted communications in which he was involved. His theory was that the Government, rather than reveal such activity, would dismiss the case against him.

I asked him what these calls were about. He told me that they were phone calls relative to the case. I now understand that these phone calls were not of any relative substance which fact Mr. McCord had not told me originally.

I received a letter from him dated August 23 reflecting these thoughts, copies of which I have made available to this honorable committee.

It is interesting to note the last paragraph of this memorandum which reads as follows: "Enjoyed the visit with you and appreciated your advice. I have got a great lawyer and am well aware of that fact. With best regards, Jim." In addition, I have provided this honorable committee with copies of undated memorandum from Mr. McCord, reflecting four telephone

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calls: one from Chili to McCord's office; another from Mr. McCord's office to the Chilean Military Attache; a call to the Israeli Embassy from Mr. McCord's home and a similar call to the Chilean Embassy. As a result thereof, I made an appropriate motion for disclosure of any government electronic surveillance in any way pertaining to Mr. McCord. Mr. Silbert's response was that he had no knowledge of any such surveillance. Again, at my client's insistence, I made a second similar motion at the bench during trial, explaining to Chief Judge Sirica that I was doing so at my client's insistence that such calls had, in fact, been made and had been electronically intercepted.

The government again stated its total lack of knowledge of any such activity and accordingly, no action was taken on my motion. My actions in this regard were consistent with and occasioned by my determination to defend my client to the best of my ability by utilizing any and all legal and proper means. In retrospect, I must conclude that my efforts were not, to say the least, appreciated.

With regard to opportunities presented to Mr. McCord to tell all that he knew with regard to the Watergate operation, I state the following:

On or about October 25, 1972, the Government conveyed to local counsel, Bernard Shankman and my associate, Mr. Johnson, an offer to accept from Mr. McCord a plea of guilty to one substantive count of the indictment and in return for his testimony as a Government Witness, a recommendation of leniency would be made to the court. The Government indicated, however, that it could not and would not recommend any type of sentence which would allow Mr. McCord to remain at liberty. This offer was transmitted to Mr. McCord and was unequivocally rejected

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In November of 1972, a second plea offer was received from the prosecutors. At this time, the offer was essentially similar to the first offer, except that Mr. McCord would have to plead to three counts of the indictment instead of one. The explanation for this change of position was that the Government's case had grown considerably stronger. This offer, which also involved Mr. McCord's testifying as a Government Witness, was related to and again rejected by Mr. McCord.

I advised Mr. McCord after an in-camera session with Chief Judge Sirica, that there still existed an opportunity for him to appear before the Grand Jury, even at that stage of the trial, to make full disclosure. I have been informed that the committee has been provided with a transcript of that in-camera proceeding and I therefore will not attempt to paraphrase the words of Chief Judge Sirica. This third opportunity was turned down by Mr. McCord. I take the liberty of bringing these three instances to the attention of this honorable committee since, in my opinion, Mr. McCord, in portions of his testimony before you on May 18, 1973, implied that I had pressured him to plead guilty and remain silent. I state to you that this is not so, and refer you to the question asked of Mr. McCord by Senator Ervin on May 18, 1973 and I quote, QUESTION: "How, did your lawyer urge you to enter a plea of guilty? I am talking about Mr. Gerald Alch." ANSWER: "I do not recall that, no sir." That portion, at least, of Mr. McCord's testimony, is accurate.

With regard to the allegations of Mr. McCord to the effect that I suggested that the CIA be brought into the case in a defense posture, I state the following:
As heretofore explained, I had decided to base Mr. McCord's

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defense on the theory of "duress" for two basic reasons. (1) it was the only legally recognized defense that I felt was supportable (2) more importantly, it appeared to be the factual truth, based upon Mr. McCord's explanation of his own motive. In December of 1972, I attended one of several meetings of defense counsel, the purpose of which was to discuss various aspects of trial strategy. I proceeded to explain the defense that I was contemplating. A discussion ensued wherein some of the other defense attorneys reasoned that this "security motive" would be applicable only to McCord, in view of his position as Chief of Security for the Committee to Re-elect the President. In the general discussion that followed, the question arose as to whether or not the CIA could have been involved. It was pointed by others that all of the individuals apprehended in the Watergate complex had some prior connection with the CIA and that one of the Cuban-Americans had been in possession of what appeared to be CIA-forged documents. Before the meeting went on to other topics, it was agreed that each lawyer would ask his respective client whether or not he had any knowledge of any CIA involvement. When the meeting terminated, I telephoned Mr. McCord at his office and asked him to meet with me and local counsel, Mr. Shankman, at the Monocle Restaurant for lunch. During lunch, which lasted for approximately 45 minutes, I asked Mr. McCord whether, to his knowledge, the CIA was in any way involved with the Watergate venture. He did not directly respond to this specific question, but did become quite upset at what he believed to be the antagonism of the White House against the CIA. He cited the dismissal of Helms as CIA Director and the appointment of Schlesinger in his place, as an attempted "hatchet job" by the administration against the CIA. He did

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venture his observation that if any CIA officials were subpoenaed that they would not and could not comply with said subpoena. Because of the brevity of the luncheon and because of the obvious need for more detailed pre-trial preparation meetings, I asked Mr. McCord to come to Boston in a few days, which he agreed to do.

On or about December 26, 1972, Mr. McCord came to Boston and initiated our conversation by stating that the CIA was not involved and that he would have no part of any attempt to involve that agency. He asked that I relay this position to other defense counsel at our next meeting, which I agreed to do, and in fact did.

I did not, after advising other defense counsel of Mr. McCord's denial of CIA involvement, engage with other counsel in any further conversation of any potential defense involving the CIA. At no time did I suggest to Mr. McCord that the so-called CIA defense be utilized, for the defense of "duress" had already been agreed upon, but I merely asked him whether or not there was a factual basis for this contention. Mr. McCord's allegation that I announced my ability to forge his CIA personal records with the cooperation of then acting CIA director, Slessinger, is absurd and completely untrue. I have never had the privilege of meeting Mr. Slessinger and no such statement was ever made. My local counsel, Bernard Thankman who was present at the Monocle can corroborate this. The remainder of my discussion with Mr. McCord in Boston was devoted to further analysis of the "duress" defense and when the meeting ended, I told him that I would keep in daily telephone contact with him until our next meeting which I tentatively scheduled for the first week of January, 1973.

Between December 26, 1972 and the first week of January, 1973, I attempted to contact Mr. McCord on several occasions by telephone, but each time that I called, I was told that he was not in and my requests for a return call were not answered. This puzzled me, for up to that point, it was Mr.

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McCord's habit to return my calls immediately upon his receiving any message from me so to do. On or about January 2, 1973, I received a call from local counsel, Bernard Shankman, who advised me that Mr. McCord had or was about to deliver a letter to Chief Judge Sirica, dismissing me as his counsel. This was a shock to me, for at our last meeting in my office on December 26, 1972, we parted on a most cordial note, and in complete agreement upon the theory of his defense. I asked Mr. Shankman to advise Mr. McCord that I would fly into Washington on January 3, 1973 to speak with him on this matter. I did meet with Mr. McCord after I had learned that a letter of dismissal had, in fact, been given to Chief Judge Sirica and that Chief Judge Sirica's position was that I was still counsel of record and that this development would not afford a basis for a continuance. When I met Mr. McCord, I expressed to him my astonishment at his action and asked him why he had acted in such a way. Mr. Shankman had told me that one reason cited to him by Mr. McCord was the question regarding the CIA defense. I brought this up to Mr. McCord and said to him in substance, "I thought that issue was laid to rest during our last meeting in Boston when you denied any factual involvement on the part of the CIA." He agreed that it was, but said that was not the reason for his letter. He claimed that I had not been maintaining sufficient contact with him, and that he was unsure of my being adequately prepared for trial. I told him that in my opinion, this was not so; that he had the right to any lawyer of his choice and that if he wished to dismiss me, that was his prerogative; I pointed out what I had viewed as a most satisfactory attorney/client relationship based upon mutual trust and confidence, and suggested that if he had any grievance with me that he should advise me of same, face to face, rather than refusing to answer my phone calls and unilaterally, without my

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knowned e, delivering to the Judge a letter of dismissal. When I said this, he became defensive, apologized for what he described as a "lack of communication and misunderstanding", and expressed his desire to maintain me as counsel. Again, he voided his confidence in me and extended his hand in affirmation of that confidence.

On January 8, 1973, the first day of trial, I learned that Mr. William O. Bittman's client, Mr. Hunt, had offered to plead to any and all counts of the indictment immediately prior to trial, but that Chief Judge Sirica had said that he would not entertain any change of plea until after jury selection and opening statements.

This appeared to me to be highly prejudicial to my client, for it would tend to give the jury the impression that after the Government's opening statement, one of the defendants had thrown in the towel, so to speak, overwhelmed with the weight of the evidence against him. I felt this could and should have been avoided by a change of plea being resolved prior to the commencement of trial, since this had been the request of defendant Hunt. I had told Mr. McCord that our routine, once trial began, would be for him to spend some time each day immediately after court with Mr. Shankman and me to review what had gone on that day and to discuss what was to happen the following day, in order to ascertain whether or not there would be a basis for mistrial. I wanted to discuss with Mr. Bittman the details of his client's proposed change of plea. It was agreed that we would meet at his office immediately after court was concluded for that day. Mr. Shankman, Mr. McCord, and I hailed a cab and at the last minute, co-defendant Barker asked if he could ride in the cab with us. Why Mr. Barker was going to Mr. Bittman's office, I do not know. There was no significant conversation with Mr. Barker in the cab. Mr. McCord has alleged that I told him that the purpose of going to Bittman's office was that Mr. Bittman wanted to talk with him about "whose word he would trust regarding a White House offer of executive clemency" and that Mr. Bittman wanted to talk to

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Mr. Barker as well. This is not true. I merely said to Mr. McCord that prior to the scheduled daily post-court meeting between he, Mr. Shankman and myself, that we would stop at Mr. Bittman's office, for I wanted to discuss with him the ramifications and details of Mr. Hunt's proposed change of plea. When we arrived at Mr. Bittman's office, Mr. McCord has alleged that I sensed his anger at Mr. Barker's presence, and therefore, delayed going up to Mr. Bittman's office for approximately thirty minutes. The simple truth is that I suggested that we three have a cocktail and Mr. McCord, Mr. Shankman and I went into a Restaurant directly across the street from Mr. Bittman's office for just that purpose.

When we arrived at Mr. Bittman's office, I went with Mr. McCord and Mr. Shankman to the firm's library and went back to Mr. Bittman's office to see if he was there. I had a discussion with him in which he confirmed the Judge's refusal to entertain any change of plea by Mr. Hunt until after opening statements. At this point, I mentioned to Mr. Bittman that I felt my client was becoming a bit paranoid, that he felt he was being made the "patsy" of "fall guy". I mentioned it at that time since in my mind, that allegation seemed inconsistent with Mr. Hunt's desire to plead guilty. After I mentioned Mr. McCord's apprehension, my recollection is that Mr. Bittman said in words or substance, "Tell McCord he will receive a call from a friend of his." Mr. Bittman did not mention the "White House" as alleged by Mr. McCord. The identity of this friend was not made known to me, nor did I make inquiry in this matter. I considered the possibility, without actually knowing,

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that the purpose of this call was to allay Mr. McCord's fears that his co-defendants were turning against him, and that the caller could very well be Mr. Pittman's client, Mr. Hunt. I considered this possibility in view of the context of the conversation immediately preceding Mr. Pittman's remark, that is, my statement in accordance with Mr. McCord's request, of his apprehension with regard to his co-defendants. I subsequently told Mr. McCord just what Mr. Pittman had told me, that he would receive a call from a friend. I did not mention the words "the White House" because Mr. Pittman did not mention those words to me. Mr. McCord nodded, said, "Okay" and had no further response to my statement. Sometime later, as the trial was in progress, Mr. McCord told me that he had been in contact with a man by the name of Caldwell. He spoke freely, and that he did not wish to tell me who this man was or the subject matter of his conversation with him. In response, I told Mr. McCord that that was his prerogative. In this regard, I respectfully invite the attention of this honorable committee to Mr. McCord's letter to Chief Justice Warren of March 19, 1957, of which I had no prior knowledge. I respectfully refer to the next to the last paragraph on page two of this letter in which Mr. McCord, after mentioning nothing of political pressure applied to the defendants to plead guilty and receive a death sentence, stated, and I quote, "I have not discussed this above with my attorney as a matter of protection for them."

Mr. McCord had alleged that the subject of executive clemency was discussed on this day, January 8, 1957.

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This is not true. In late 1972, during one of the pre-trial meetings of defense lawyers in Washington, I had an occasion to say to Mr. Bittman, "Bill, what do you think our clients will receive as a sentence should they be convicted." Mr. Bittman responded in substance, as if theorizing, "You can never tell, Christmas time rolls around and there could be executive clemency. I scoffed at this notion and told Mr. Bittman that in my opinion, the President would not touch this case with a ten foot pole, let alone exercise executive clemency. This subject had not been on any agenda, but arose in what I characterize as "lawyer's talk." Subsequently, but not on the same day, I mentioned this to Mr. McCord in a most skeptic manner, and said to him, "Jim, it can be Christmas, Easter and Thanksgiving all rolled up into one, but in my opinion, the President wouldn't touch this with a 10-foot pole." Mr. McCord laughed and agreed with me. That was the only occasion that the words "executive clemency" were ever mentioned by me to my client. I have neither met John Dean nor spoken to him in my life. I have neither met John Caulfield nor spoken to him in my life.

During the trial, I presented to Chief Judge Sirica my contemplated defense theory of "duress" supported by a memorandum of law. Several days later, after receiving a written response from the Government, the Court ruled as a matter of law that this defense did not apply to this case, thereby precluding me from presenting evidence in support thereof and from relying upon it in closing argument.

After opening statements, Mr. Hunt pleaded guilty, the four Cuban-Americans pleaded guilty at which time I filed a motion for mistrial which was denied.

When this happened, I explained to Mr. McCord that the only possible remaining defense was the general defense of "lack of criminal intent" but advised him that in my opinion, it had little or no legal merit for it was asking the jury to believe that he did not know he was breaking the law when he broke into the Watergate complex and that this, to say the least, was not very "salable". Mr. McCord indicated his understanding of our position, told me that he was, nevertheless, most pleased with my exerting my best efforts with regard to the proposed theory of "duress" and asked whether or not the Judge's ruling could be a point of appeal in the event of conviction. I told him that it

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could and would be, that the record had been made in that regard, and he indicated his complete satisfaction with the then existing situation.

As the trial approached the completion of the Government's case, I conferred with Mr. McCord at one of our daily post-trial meetings and told him that a decision would have to be made regarding whether or not he would take the stand. I explained to him that if he elected to testify, it would be his obligation to answer any and all relevant questions. It was at this time that Mr. McCord told me that he had evidence to the effect that the Watergate operation had been approved by John Mitchell. I asked him the nature of the evidence and he told me he had been so advised by Mr. Liddy. I asked him if he had any other corroborative evidence and he told me he did not. I told him that although this was technically hearsay, it would be admissible as a declaration by one co-conspirator to another and told him to understand beyond any doubt, that should he take the stand, that question would in my opinion be asked and an answer required. I told him that if he elected to take the stand, full disclosure would be necessary; that I was with him all the way, but that this crucial decision of whether or not to testify could only be his. I did advise him, however, to resolve this question as soon as possible and not advise me of his decision at the last minute, thereby precluding adequate time for preparation of direct and cross examination.

As the trial progressed and the time for decision was at hand, Mr. McCord asked me what I thought the grounds of appeal would be in the event of conviction. I reviewed them with him.

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mentioning such things as the Court's denial of my motion for mistrial, based upon the timing of the change of plea by his five co-defendants, as well as the ruling by Chief Judge Sirica precluding the defense of "Marek". He told me that he had decided not to testify. I asked him if he had any reservations regarding that decision and he said he did not.

As the jury announced its verdict, I immediately asked the Chief Judge to be heard on the matter of bail, which request was denied. The Court advised that the motion be put in writing so as to allow the Government to respond. I immediately set to work upon this, urged the prosecution to respond as quickly as possible and several days later a hearing was held, at which time bail was set at \$100,000.00, pending sentence.

What I am now about to relate is not for the purpose of self-commendation, but is stated to show and emphasize the relationship that existed between Mr. McCord and I from the beginning to the end of the trial. There was not a day of trial that passed without Mr. McCord shaking my hand at the end of each day and telling me what a superlative job I had done. He used adjectives such as "terrific", "outstanding", etc., and expressed his total and unequivocal satisfaction and appreciation for my efforts. I remember the day of final argument when present in the court room were Mr. McCord's wife, his son, his daughter, and his parents. After my final argument, they all came up to me and profusely thanked me for the words I had uttered in Mr. McCord's behalf. They said they were proud of my description of Mr. McCord and that they were "thrilled to sit there and hear it." Mrs.

McCord had previously told me of her anxiety over what the effects of the trial might have on her son who was a student at the Air Force Academy. On the day of the final argument, she asked if I could obtain for her a copy of the argument so that she could give it to her son. When the jury announced its verdict of guilty, Mr. McCord turned to me, extended his hand and said, "There is no one that could have done a better job than you did. You are a terrific lawyer and I shall always be grateful to you." It was, to me, an emotional moment. Local counsel, Mr. Shankman, can bear witness to all of the above.

To further demonstrate the status of my relationship with my client, I have provided this honorable committee with a copy of my letter to Mr. McCord dated February 6, 1973, while he was incarcerated at the District of Columbia Jail. I specifically refer the attention of this honorable committee to the third paragraph thereof which reads as follows: (read third paragraph).

I immediately commenced my efforts to effectuate Mr. McCord's release on bail. The record will reflect that a Petition to Reduce the Bail set by Chief Judge Sirica was filed in the Court of Appeals for the District of Columbia at the earliest possible time. I made several visits to Mr. McCord in the District of Columbia Jail. I remember his expressing dissatisfaction at being placed in a maximum security area. I immediately spoke to the prison superintendent and asked if anything could be done. No commitment was made, but I was told that my request would be given every consideration. I remember that approximately a week after the trial ended, my wife and I went,

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on a four day vacation to Jamaica and even then, I made at least one, if not two daily phone calls to Mrs. McCord on the question of bail. My concern was to effectuate the release of my client as soon as possible.

I recall my first visit to Mr. McCord at the jail. When he first saw me, he was approximately twenty feet away. He broke out into a wide smile, extended his hand and accelerated his pace. He told me how glad he was to see me so that he might again express his gratitude for my efforts in his behalf. I told him of my immediate appellate action regarding bail and of my daily telephone contact with his wife, and he thanked me profusely. I remember him telling me how fortunate he felt to have me working so hard as his attorney and he again re-emphasized his belief that my job for him was beyond reproach.

He told me that his wife was contacting friends with regard to bail, but he specifically asked that I call a man by the name of Bernard Fensterwald, whom he said might be very helpful in obtaining bail. This was the first time I had heard the name. I did not ask who this man was, or what his relationship to Mr. McCord was, merely made note of his name and telephone number and called him from the pay phone at the jail, immediately after leaving Mr. McCord. I introduced myself as Mrs. McCord's attorney and told Mr. Fensterwald the purpose of my call. He told me that he thought he could arrange to meet the bail requirements within a matter of days; that he had "friends" with whom he was in contact; that these friends stated that things "looked good" and that I should stay in daily contact with him. I immediately related this helpful news to Mrs. McCord and she was understandably overjoyed at the prospect of her husband's imminent release. Daily phone calls were made to Mr. Fensterwald. I was not always able to reach him directly, but when I did, he would tell me that his

friends were still working on it and to keep in daily contact. Several days passed. The word from Mr. Fensterwald was still inconclusive, i. e., he was still waiting word from other people. Then, during one of my telephone calls, he told me that these other contacts had fallen through, but that he was ready, willing and able to personally borrow the full amount of \$100,000.00 and that he could do so by "just going down to the bank and signing the note." He told me that his motive for so acting was that he was "outraged" at the high bond set by Chief Judge Cirica and felt this to be a gross injustice, which he was taking upon himself to rectify. This was, I believe, in February of 1973. I told him I would call him the following day. When I did so, he told me that he had been refused by the bank, but that he was looking to "another source" for funds. He did not specify, nor did I ask the identity of the source. He did tell me, however, to ascertain from Mrs. McCord, how much she could raise through friends and relatives so that he could attempt to come up with the balance. I again visited Mr. McCord and advised him of the progress. He had been in jail some two weeks now and I sensed his anxiety was increasing. He told me that when I spoke to Mr. Fensterwald again, I was to be sure to relate to him his, (Mr. McCord's) gratitude. I left Mr. McCord, went to the phone booth in the jail, called Mr. Fensterwald and related McCord's thanks. Mr. Fensterwald's reply was, "I don't see how he can send his thanks to me because I never even met the man." This seemed unusual to me to say the least, that a man would be doing what Mr. Fensterwald said he was trying to do for someone he had never met, but I was not about to look a gift horse in the mouth. My sole concern was for my client and my immediate objective was to effectuate his release on bail. Mrs. McCord subsequently

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advised that she was able to raise \$60,000.00. I related this to Mr. Fensterwald who said he would be able to produce the remaining \$40,000.00. This was shortly thereafter accomplished and Mr. McCord was out on bail awaiting sentencing.

In the following days, I was involved with legal commitments which took me out of Boston, but kept in telephonic touch with Mr. McCord. Our relationship remained most cordial. When the date of sentencing arrived, I was engaged in trial in Federal Court in Chicago, Illinois. I was asked for, and received permission to adjourn the trial for the day of sentencing, so that I might be present with Mr. McCord in court.

This was the day when Chief Judge Sirica read in open court Mr. McCord's letter of 3/19/73 of which I had no prior knowledge.

When Chief Judge Sirica called a twenty minute recess immediately following his reading of the letter, I sat with Mr. McCord at the counsel table and asked him why he had not informed me of his intentions. He apologized for so doing and again repeated that he had not advised me of his allegations as a matter of my own protection. I asked him what he wanted me to do. He told me he wished to speak privately, with me being present, to Chief Judge Sirica regarding the allegations of his letter and asked that I advise the court of this request.

During this conversation, a man approached Mr. McCord and said in what I can best describe as a whispered or hushed manner, "If you need an office, you can use mine right after court." Mr. McCord nodded and I asked Mr. McCord who this man was. Mr. McCord identified the individual and introduced him to me as Bernard Fensterwald. This was the first time I had met the man with whom I had had so much telephone contact pertaining to bail. Mr. McCord said to Mr. Fensterwald, in my presence, "The one thing I feel sorry about is keeping Gerry in the dark and pulling this on him." Mr. Fensterwald replied, "Sorry hell, let it all hang out."

When court reconvened, I related to the Chief Judge Mr. McCord's request, which at that time was granted and an in-camera meeting was tentatively set up for the following week. I naturally was embarrassed at not having been advised by my client as to so crucial and dramatic a move, but reasoned to myself that, after all, I had been away, engaged in trial and Mr. McCord's apology seemed most sincere and I, therefore, chose not to make an issue out of this failure of communication.

This, I recall, was on a Friday. It was on that day that Mr. Samuel Dash, of the Select Senate Committee came to me, introduced himself and asked if he could converse with Mr. McCord. I told him that it was Mr. McCord's immediate request to speak with Judge Sirica and that I would be happy to relay to Mr. McCord Mr. Dash's request. I then resumed my Chicago trial and in the newspapers read that Mr. McCord had begun to confer with Senate investigators. Subsequently, Mr. McCord called me and said that since I was away on trial and that since things were "breaking so quickly" didn't I think it was a good idea for him to retain local Washington counsel. I said, Yes, I thought it was a good idea. He asked me if I had any

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objection to Mr. Fensterwald, I said I had none, and Mr. McCord advised me this would be done. My next contact with Mr. McCord was when he, I, and Mr. Fensterwald met the night before our last court appearance before Chief Judge Sirica at which time the sentencing was continued until January 15, 1973. Mr. McCord was extremely upset over what he believed to be unfair newspaper coverage of his disclosures. He kept smashing his fist on my suitcase. At this point, Mr. Fensterwald said to Mr. McCord, "The reporters have been asking me whether or not you or I had ever had any past relationship. I told him that we had." At this point, Mr. McCord looked up with a surprised expression. Mr. Fensterwald said, "Well, after all, you have in the past submitted to me checks which were donations to the Committee for the Investigation of the Assassination of the President." Mr. McCord smiled and said, "Oh, yea, that's right."

Prior to the court appearance of the following morning, at a meeting at Mr. Fensterwald's office, it was agreed that since my immediate trial schedule called for me to remain in Chicago for an anticipated period of six to eight weeks, that Mr. Fensterwald would continue to represent Mr. McCord in my absence, both in the criminal matter and in all hearing before the Grand Jury and this honorable committee, but that upon the completion of my trial duties, I would again assume my role as counsel in all matters. That morning, in court, I asked for and received a continuance of sentencing to June 15, 1973. I advised the court of Mr. McCord's desire to cooperate fully with both the Grand Jury and Senate Committee and further advised of Mr. McCord's preference to first testifying before the Senate Committee. When court was over, I said to both Mr. McCord and Mr. Fensterwald that I would be happy to continue my representation of Mr. McCord, but asked that in

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the future, as long as I continued in that capacity, I at least be given the courtesy of being kept abreast of Mr. McCord's activities, so that I would not again be embarrassed. Both Mr. McCord and Mr. Fensterwald agreed that this was proper, Mr. McCord again apologized to me and Mr. Fensterwald told me that he would call me "wherever I was every day," even if he had nothing to tell me. The meeting ended with all of us shaking hands, and I flew out of town. I have not seen either Mr. McCord or Mr. Fensterwald since that time.

Subsequently, while I was still on trial in Chicago, I did receive several phone calls from Mr. Fensterwald, although not daily as he had promised, and I recall that in one telephone conversation he said to me, "What do you think of all that is going on?" referring to the disclosures being made by Mr. McCord to this honorable Committee. I replied, "Whatever is right for Jim McCord is alright with me." Mr. Fensterwald replied, "We're going after the President of the United States." I replied that I was not interested in any vendettas against the President but only in the best interest of my client, to which Mr. Fensterwald replied, "Well, you'll see, that's who we're going after, the President."

During another telephone conversation with Mr. Fensterwald, he stated that he was most displeased with the reaction of the Republican members of this honorable Committee, to Mr. McCord's submitted memoranda and further stated that "I'll submit memoranda but I don't want the Republicans to see them. During a third telephone conversation, he advised of Mr. McCord's intention to hold a national press conference. I replied that in my opinion, this would demean Mr. McCord's position and that he should stay within the framework of both the Grand Jury and the Select Committee. I further stated that to hold such a press conference could conceivably antagonize Chief Judge Sirica. Mr.

Fensterwald replied that he would attempt to obtain approval of such a press conference from Senator Ervin, and that if such approval was obtained, this would be presented as a mitigating factor in the event of Chief Judge Sirica's displeasure.

Subsequently, my contact with Mr. McCord and Mr. Fensterwald diminished and I immediately, after the completion of my Chicago Federal case, commenced a five week murder trial in Cook County, Chicago. On May 8, 1973, my secretary gave me a message reflecting a call from the Los Angeles Times in regard to a four page memorandum of Mr. McCord, involving the C.I.A. that was about to be published the following morning. I called Mr. McCord that night, was told by his wife that he was not in, and I left a message for him to call me. He never did. The following day, the New York Times published a memorandum by Mr. McCord, alleging that I had stated that I could obtain forged C.I.A. documents with the cooperation of the director of the C.I.A. I again called Mr. McCord and his wife told me that he was at a meeting and that she would once again relay my message to him, but he never called. At approximately 5:30 PM on May 8, 1973, I contacted Mr. Fensterwald by telephone and asked him to explain these false allegations made by Mr. McCord. Mr. Fensterwald stated, "I can only hazard the guess that it is the result of Mr. McCord's faulty recollection." He added, "I can tell you one thing, it's a terrible cliché, but I think you will agree with it, that there is no zealot like a convert." I had had no further contact from Mr. McCord.

* * * * *

Mr. McCord has accused me of exerting pressure upon him, but I respectfully request this honorable committee to take note of the following facts:

1. Mr. McCord did not plead guilty.

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2. He admitted, under oath, in response to a question put to him by Senator Ervin that I never urged him to enter a plea of guilty.

3. In his letter of March 19, 1973 to Chief Judge Sirica, in referring to his allegations of improprieties, including but not limited to political pressure, stated, "I have not discussed the above with my attorneys as a matter of protection for them."

4. Mr. McCord proceeded to trial defense based upon what he told me to be the truth.

I have done nothing wrong and am, therefore, not afraid, but am upset as a practicing criminal trial lawyer. I must confess that I am the type of criminal defense attorney who, rightly or wrongly, gets emotionally involved with his client's cause. I remain fully cognizant of the fact that a man's liberty is at stake, rather than a determination of dollars and cents. I ask my client to take me into his confidence and I reciprocate. I keep him constantly advised of my thoughts and theories. To me, this attitude of complete disclosure is based upon my interpretation of the duty I owe to the man I am defending. How can a lawyer effectively represent his client when faced with the possibility that the man for whom he is working night and day is constantly making a record of privileged conversations with the intent of subsequently violating this privilege by making false accusations and by selectively extracting statements out of context and twisting them into untruths.

Can a defense attorney function properly under such circumstances. I have always made a practice not to comment on matters of which I have no knowledge. Mr. McCord has made accusations directed towards many men. I am in no position to judge his credibility in that regard. I do, however, have first-hand knowledge of his relationship with me, and in regard to his accusations against me, he is not telling the truth.

As I watched Mr. McCord on national television on May 18, 1973, and listened to him falsely accuse me of professional misconduct, which accusations are false in every respect. I immediately and vividly recalled his praise for me throughout the trial, his confidence in me at the time professed of the guilty verdict and his further expression of gratitude during the period of his incarceration and I asked myself, "What kind of a man is this?"

Gerold -

11/25/72 "B"

I well understand that it is your job and not mine to work up a defense. Nevertheless I have been putting together some ideas, and collecting every newspaper clipping I can find which may be of help later.

I am strongly oriented toward the grounds of self-defense, and defense of others, and of property, as my defense. I believe we can make the strongest defense on these grounds. We will of course need to talk this out at length, and you have the final say in the matter.

With best regards - Jim

"B"

Section

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B. Defense of others.....	IB
C. Defense of property.....	IC
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RESPONSIBILITY	II.....
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B. Conduct of Injured Party.....	IIB

Prejudicial Publicity : : : : III
 1. No white Caravan
 2. over 100 Publicity

Grounds For Change of Venue : : : : IV
 A. High percentage of Democrats on
 Voting Registry for Jury Duty in D.C.
 B. Overwhelming Employment by US Govt
 of persons on Voting Registry in D.C.
 and biased toward the prosecution (or
 the government) as a result

Purpose:

Reasons: *Out of reasons of self-defense as Security Coordinator.

- * Used non-deadly force ~~against~~ to obtain evidence of DNC and others in conspiracy with violence-oriented groups to commit violence and battery against the two organizations for whom I was responsible as Security Coordinator to protect life and property for, the Republican National Committee and the Committee to Re-Elect the President
- * The obtaining of such hard evidence was only possible by methods used.
- * to intervene for the purpose of preventing perpetration of crime, and
- * in defense of person and property of the Committee to Re-Elect the President and the Republican National Committee

Background: State my mission and responsibilities as Sec Coordinator

State history of prior political espionage against GOP

List functions ~~Al~~ performed in gathering information among violence-oriented groups during May demonstrations in Washington, *Show their love to Democratic leadership.*

List evidence of funding by Demo leadership of violence-oriented groups' actions against Republicans (at Convention in August, *and elsewhere*)

List the long record of intentions to commit violence by demonstrators at Republican National Convention and later in 1972 against GOP

State hard data re intention of demonstrators to forge credentials and disrupt with explosives ~~the~~ communications during the conventions ~~at~~ at Miami.

- * Describe the bugging of the Committee to Re-Elect the President's New York Office, known as the November Group, 909-3rd Avenue, which occurred the day before June 17th, 1972. (by elements believed associated with the Democratic Party) Get the leadership of the ~~Democratic~~ Democratic National Party before the Grand Jury and question them under oath about this and other activities in political espionage against the GOP this year.

IA NON DEADLY FORCE

" One who is himself free from fault is privileged to use non-deedly force in self-defense wherver three conditions are satisfied.

1. The first is that he reasonable believes the other intends to commit a battery upon him, or unlawfully to imprison him, and this belief has been induced by the other's conduct.
2. The second is that the defensive force used is not unreasonable in view of the harm which it is intended to prevent.
3. The third is that the defender reasonable believes he cannot avoid the threatened harm without either using defensive force or giving up some right or privilege. "

(p 995 Perkins on Criminal Law)

Cases cited:

Restatement , Second, Torts para 63(1965). See also Cooke v State 18 Ala
[Pestatement, Second, Torts para 63(2)(a) and (b) (1965)]

Appeals 416, 93 So 86 (1921)

also: State v Woodward 58 Idaho 385, 74 P 2d 92 (1937)
State v Evenson 122 Iowa 88, 97 N.W. 979 (1904)
State v Sherman 16 P.I. 631, 18 A 1040 (1889)

Also: State v Gough 187 Iowa 363, 174 N.W. 279 (1919)
People v Katz, 263 App. Div 883, 32 N.Y. S. 2d 157 (1942)
State v Sherman 16 R I 631, 18 A 1040 (1880)

16. SPECIAL DEFENSES

Defense of Others

" Subject to the familiar limitations as to the degree of force permitted, one who is himself free from fault may intervene and use force to protect an innocent victim of intended crime. And under the sound view he is protected by the usual mistake-of-fact doctrine and may act upon the situation as it reasonable seems to be "

[page 1021 Perkins on Criminal Law, citing
State vs. Chiarello, 69 N J Super. 479, 174 A.2d 506
(1961)]

Model Penal Code

" The Code places considerable stress upon the privilege of using force for the protection of other persons.¹ This is in line with its general policy of downgrading the use of force in law enforcement and crime prevention and placing the emphasis upon the protection of life and personal safety.² "

1. Section 3.05

J.C. SPECIAL DEFENSES

Defense of Property

" On the other hand, one in lawful possession of real or personal property is privileged to use ~~use~~ reasonable non-deadly force if this is necessary or is reasonably believed to be necessary to prevent or terminate an unprivileged intrusion upon his right of possession¹ from which it follows that one is privileged to use such force under the same limitations to prevent the larceny of his chattel².

1. ⁸ 1 Hale P.C. 485-6; Hinchcliffe's Case 1 Lewin 161, 168 Eng. Rep 998 (1823) People v Payne 8 Cal 341 (1857) et al; Restatement , Second , Torts, para 77 (1965)
2. " In brief -- a man may defend his property by any force made necessary by the circumstances, such as assault and battery, short of taking the aggressor's life." 1 Bishop, New Criminal Law para 875(8th ed 1892). And see 2 id para 706; McNabb v. United States, 123 F2d 848, 854 (6th Cir.1941)"

Model Penal Code

- " The Code provides for the use of reasonable nondeadly force for the protection of one's property.
3. Section 3.06 Also see Model Penal Code 37 (Tent. Draft No. 8, 1958) re protection of property in the possession of any other to the same extent as if it were in his own possession.

JWM/21 July 72

L.S. SPECIAL DEFENSES

Prevention of Crime

" Important privileges overlap. They are:

- 1) to intervene for the purpose of preventing the perpetration of crime and
- 2) To defend person and property.

To the extent of the overlap both privileges are available to the one this benefited. ' It is not necessary that he should intervene solely for the purpose of protecting the public order or of protecting the private interests imperiled. His act, though a single one, may well be done for both purposes. If so, either privilege is available to him' 1. "

(page 190 Special Defenses, Perkins on Criminal Law)

"...it is important to bear in mind that the 'privilege to use force to prevent the commission of crime is usually coextensive with the privilege to make an arrest therefor without a warrant'" 2.

(page 191 ibid)

footnotes

1. Restatement, Second, Torts, Scope Note to c 5 Topic 2 (1965).
2. Id. at para 140, comment a.

JHMc/21 July 72

February 6, 1973

James W. McCord
District of Columbia Jail
Washington, D. C.

Dear Jim:

You will probably receive the information contained in this letter from Ruth before this reaches you, but I will be out of town until the evening of February 12, 1973, and therefore wanted to contact you.

Today, Barney Shankman perfected your appeal; that is, all papers have been filed in the Court of Appeals and we are presently awaiting word from them as to whether they will grant oral argument and if so, when; or whether they will decide the matter on the papers filed without hearing oral argument. I again emphasize that all papers necessary for the decision have been filed with them. I have advised Ruth to in turn advise you as to what I feel is appropriate at this time with regard to our attempts to raise bail. I have also advised her to keep in touch with Barney Shankman during my brief absence.

I again reiterate to you that I shall continue to do everything possible on your behalf and shall stay with you in all that may lie ahead. Having a client convicted can never be a source of gratification to an attorney. I will, however, always remember your vote of confidence in me before, during and after trial.

Please keep your chin up as we now await action from the Court of Appeals in the event that the present bail is met. I shall be

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down to see you some time next week; tentatively either Wednesday or Thursday, February 14 or 15.

See you soon and contact Barnie between now and the 12th.

Very truly yours,

Gerald Alch

GA: mjt

August 23rd

Dear Gerald:

This case of Russo and Ellsberg vs/ Byrne was filed about an hour before I picked it up at the Supreme Court today. It appeared directly on target for us so made a copy.

Petitioners are making a pitch of course for government dismissal of the case, rather than disclose the Chilean Embassy foreign wiretap, in which Boudin's conversations were recorded.

Petitioner's reasons for granting the writ are directly relevant to our situation in that they are arguing that:

1. On constitutional grounds, the determination of the relevance of wiretapped conversations be made in adversary proceedings, rather than in camera.
2. The refusal of the lower court to compel discovery and to conduct an adversary hearing is in conflict with the provisions of the two wiretapping statutes--the Omnibus Crime Control and Safe Streets Act of 1968 and the Org. Crime Control Act of 1970.
3. Wiretaps for foreign intelligence purposes -- and their constitutionality without a court order -- are at issue and their legality needs to be determined by the Supreme Court in its October session, in order to set this case to rest one way or another.

Though Justice Douglas is in the minority, his comments set forth in the appendix are a pretty fair summary of the thinking of the court as expressed in its two recent decisions (June 19 and June 26th of this year) on the wiretapping issue. In one, U.S. vs U.S.D.C. of Eastern Michigan, govt wiretaps without a court order in domestic subversive wiretap cases were declared illegal. The domestic subversive taps and the national security taps seem to be so intertwined in their basic nature (in the government's own arguments in fact, that the national security taps now appear in jeopardy of being declared illegal where made only on the authority of the Attorney General.

In any case, I would bet my last dollar that the Supreme Court will rule that a) the determination of the relevance of wiretapped conversations be made in adversary proceedings, rather than in camera, and the identity of the person or organization on whose phone the tap was made be made known to the defense and b) the refusal of the lower court in the Ellsberg case to compel discovery and to conduct an adversary hearing is in conflict with the two wiretapping statutes cited above; and that the government must either disclose such "state secrets" or dismiss prosecution. If that occurs, the government as we both know will dismiss prosecution rather than disclose the identity of the person or organization on whom the phone was tapped.

In my own case there are three possibilities relevant to the above:

1. In the Spring of this year, telephone calls were made from my office phone from a young Chilean employee of mine, to the Chilean military attache's residence in D. C.; and calls were received from Chile (from members of his family), to him at my office phone at night. As an employee of mine, he would appear to stand in somewhat the same situation as the petitioner's consultants in the Ellsberg case (page 3 Jurisdiction), if those calls were tapped on national security grounds by the govt.
2. If taps were placed on my home and/or office phones by the govt on the authority of the Attorney General, without court order, during the first week after my arrest on June 17th, they would be illegal, according to the Supreme Court decision of June 26th in the case of U.S. vs. U.S. District Court of Eastern Michigan. There is a fair chance that there were such taps during that period on my phone because at that time, the stories in the press, and the bond hearings, were full of innuendo that the Watergate operation may have been a Latin-American or anti-Castro operation out of ~~Washington~~ ^{some type} of some type. A tap on ~~national~~ security grounds on the Attorney General's authorization only (now illegal) would be a fair likelihood.
3. Any calls by me, subsequent to June 17th, to any organization on whom there was a national security wiretap, would, on motion, have to be disclosed to the defense if any of the 3 arguments set forth in the Ellsberg writ, under reasons for granting the writ, prove successful before the Supreme Court. If not disclosed then prosecution would have to be dropped.

The two slip opinions in the Celbard Case (June 19th) and the U.S. vs. U.S. District Court of Eastern Michigan (June 26th) were mailed to you about 3 weeks ago. I'll be copying the rest of the appendix to the Ellsberg writ of cert. tomorrow and mail to you. Hope you find some encouragement in this, it is to me.

Enjoyed the visit with you and appreciated your advice. I've got a great lawyer and am well aware of that fact. With best regards.

Jim

Oct 16 72

SUBJECT: SHIFT OF FOCUS OF THE PUBLICITY

Gerry,

About a week ago, Newsweek reporters told one of my men that the FBI had been leaking information to them relative to my case, and some of the material would appear in the next two issues.

Last week, one item appeared regarding an office of mine rented on K Street, D.C.

This week's issue, October 23rd in date, carries for the first time an allegation that I was the " ringleader " of the Watergate operation.

Instead of being 4th down the ladder from Liddy, Hung and Barker, I am now the "ringleader" according to the FBI.

This had been predicted--that I would try to be made the focus--in order to draw the attention away from the WH men, Liddy and Hunt. I could see it coming as early as August, and more particularly two weeks ago when you and I talked.

are

The FBI leaks to Newsweek ~~in~~ no accident. It is as predicted.

Jim

" COUNTER-ESPIONAGE AGENT FOR THE REPUBLICANS: "
The True Story of the Watergate Case

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1. The Mafia and DNC Funds and Personnel

The \$ 9 million loss from the DNC treasury under DNC Treasurer Robert Short, funds some people believed stolen, part of which they believed found its way into Mafia coffers, and part into Short's and others business enterprises. Short bought the Washington Senators baseball team in 1969. He was former U.S. Attorney (Assistant USA) in D.C. with David Bress during the LBJ regime, as I recall. He and Edward Bennett Williams were both in law school at Georgetown U. Hubert Humphrey put Short into the Treasurer's job at DNC in September 1968, and Humphrey arranged to get other aides in DNC including Welch. David Ginsberg, former law clerk of Justice Douglas, became general counsel for DNC. Ginsberg had headed the National Citizens Committee for Humphrey, together with Short, in 1968.

2. The Law Firm of Ginsberg and Feldman

Myer Feldman, former Counsel to Presidents Kennedy and Johnson, left the White House inner circle in 1965 under peculiar circumstances. He joined David Ginsberg's law firm. Tyler Abell, Drew Pearson's stepson, left the Post Office Department in 1967, where he had worked as Assistant Postmaster General under Larry O'Brien, and joined the Feldman, Ginsberg law firm. David Bress, subsequently joined the same firm. Bress, who had represented Bobby Baker's Serv-U Corporation in a civil suit in the 1960's, was appointed U.S. Attorney for D.C. during the Democratic Administration of the 1960's. He had formerly had offices in the building on 17th Street NW, in D.C., owned by Edward Bennett Williams. Feldman was formerly legislative assistant to JFK.

3. Leaks

Jack Anderson's ties to the McGovern and Democratic hierarchy are solid. He is in business with Myer Feldman, Tyler Abell, and David Ginsberg in the Annapolis Evening Capitol-Gazette newspaper. Feldman is the trustee for McGovern's personal trust fund, and is heading McGovern's fund drive. Check Speer Publications of Annapolis, owned by Myer Feldman and the Capitol-Gazette, since it is recalled that either RNC or CRP wanted to use a firm of a similar name to do printing for them. If so, possibly involved in the " pipeline by McGovern into CRP " allegation.

4. Flying Tigers and Anna Chennault

Myer Feldman and David Ginsberg have both served as general counsel for the Flying Tigers, which received considerably expanded overseas air cargo contracts in recent months. Anna Chennault is V-P. They could be working several sides of the street.

-2-

5. Israel and the Mafia

The Feldman and Ginsberg law firm has been registered as foreign agents for the Government of Israel and El Al Airlines, specializing in promoting investments in Israel. Meyer Lansky's Miami Group built several hotels in Israel, and may have worked through the firm. Feldman is known as the Israeli expert in the McGovern campaign, and was formerly the Israeli expert in the Democratic administrations of the 1960's, and had as well the reputation of the man for business and industry to see in the Democratic administrations of the 1960's to get legislation and export and import quotas underway. He was accused of leaning more to the interests of business and industry, rather than to the interests of the country, at times.

Irving I. Davidson, who shared offices with Jack Anderson for 9 years, had been a registered agent for the Israeli military industry in promoting the UZI weapon. He was involved in the Bobby Baker scandal during this period and in the sugar lobby scandal.

6. Jack Anderson and government contracts for Airlift (formerly Riddle) Airlines

Jack Anderson served on the Board of Directors of Riddle/Airlift Airlines from mid-1963 to the 1966-67 period.

a. Anderson bragged to a confidential source, it is reported, that during this period he arranged Military Airlift Command (MAC) contracts for Airlift through Robert McNamara, former Secretary of Defense, and substantially increased the revenue for Airlift Airlines as a result.

b. Anderson also bragged to a confidential source that he had arranged to get mail contracts for Airlift Airlines through contacts at the U.S. Post Office Department. Tyler Abell, with whom Anderson is now in business, was Assistant Postmaster General under Larry O'Brien until 1967. Anderson is also in the real estate business with another postal official in O'Brien's office, Wendell Larson. He and Larson bought 514 acres of land together in Spottsylvania County, Virginia, in the 1960's which they still own. Larson earlier in the 1960's reportedly was in the CAB.

As stated above, Tyler Abell, left the Post Office Department in 1967 to join the law firm of Ginsberg and Feldman. The firm had done a study of postal reorganization for the Post Office Department in the 1960's.

7. Jack Anderson and Charles F. Willis of Alaskan Airlines

Jack Anderson joined Charles F. Willis and a Washington attorney on the Board of Trustees of Kirkwood Hall near Easton, Maryland, in 1971. Willis is the former Chairman of the Board of Alaskan Airlines and heads an Alaskan Development Corporation. Anderson was allegedly responsible for getting an EPA pollution research training grant for Kirkwood Hall after joining its trustees. Then suddenly Kirkwood Hall property and land was sold out from under the school by Willis, sold to the Marine Engineers Beneficial Association. Who received the finder's fee in the sale was not reported, nor whether Anderson benefited financially in the EPA grant.

-3-

Anderson reportedly "lost a bundle" in oil investments in Alaska with Ed Morgan. Morgan is handling certain legal work for Hank Greenspun, another business partner of Anderson's. Morgan is the individual who was given the word in 1970 by Howard Hughes that Robert Maheu was fired forthwith. A swindle of Hughes by Maheu and Greenspun involving substantial sums is inferred in the litigation.

8. Emprise Corporation and the Mafia

telephones in his

Regarding the tapping of U.S. Representative Sam Steiger's/offices in the Federal Building in Phoenix by a racing firm involved with Emprise, and political contributions. Emprise's political contributions to former Louisiana Governor John McKeithen and former U.S. Senator Earl Long, are well known. Its use as a conduit for the investment by the St. Louis Sicilian Mafia family, and other syndicate figures, in Las Vegas is also well established. The NEA Cincinnati Royals owner J. Jacobs major stockholdings in Emprise are also well known. Steiger's long-standing battle against the Syndicate has drawn their telephone tapping attack, and character assassination campaign.

9. Jack Halphen's testimony and former Washington lobbyist Fred Black's testimony will shed further light on the Mafia story. The great concern in this area, especially in leaks of FBI reports to the Mafia as early as the summer of 1963 via Lansky's bag man Sigelbaum, may be clarified through their testimony.

In the Omnibus Crime Control Bill of 1968, and the Organized Crime Control Bill of 1970, Congress mandated disclosure, on motion from a defense attorney, of ALL IMPERMISSABLY INTERCEPTED CONVERSATIONS - not just those relevant to a case, or intended to be introduced into evidence. The Senate report on the Omnibus Crime Control Bill of 1968 sets forth clearly that Congressional intent, and the fact that it was incorporated into law as a protection for the defendant.

The impermissably intercepted conversations of McCord's included:

1. A long-distance call from Chile to McCord's office phone in the Spring of 1972.
2. Local calls from McCord's office phone in the Spring of 1972 to the Chilean Military attache's residence and office phone in the Washington area.
3. Calls by McCord from his residence phone to the following Embassies:

September 21, 1972 to the Israeli Embassy 8:35 am from 762-8720

October 10, 1972 to the Chilean Embassy 4:50 pm from 762-8720

4. Agencies involved: FBI, NSA, and CIA

MEMO: MC CORD - UNITES STATES V.
FROM: J.A.J.
DATE: 9/19/72

This date the McCord case came on for arraignment in the Unites States District Court, Washington, D.C. before Judge Sirica, Chief Judge of that Court.

I met McCord at 8:30 A.M. at the hotel and instructed him as to the formalities involved in the arrignment. McCord told me at that time that he would like to present evidence to a Grand Jury regarding what he knew about illegal matters having been taken up within the Democratic National Committee. I told him, that in my opinion, that this would be impossible, since in order to do so, he would have to incriminate himself under the charges with which he is already charged, since all of the information that he would want to give the Grand Jury would have to come from the illegal wiretap. He agreed with me that this would not be appropriate at this time.

McCord also told me that he was in the process of writing a book; that he had completed a temporary manuscript; that he had contacted a publisher and would like to know from this office and Henry Rothblatt whether he could go ahead and publish this thing prior to election day. He told me that he felt that any publication after election day would not be worthwhile monetarily. I told him I could not make this decision for him, but that I would speak to Mr. Alch about it for whatever advice he might wish to give. It would be my

considered opinion, that he should be discouraged from doing this at this time. A

At the arraignment Judge Siraca listened for several hours regarding the questions of bail on Liddy and Hunt and then arraigned the defendants upon which pleas of not guilty were entered. Representing George Liddy was one, Peter L. Mal uis and representing Hunt was one, William Bittman, whose addresses are in the file.

Henry Rothblatt was there representing Bernard L. Barker, Eugenio R. Martinez, Frank A. Sturgis and Virgilio R. Gonzalez.

At that time Motions were considered regarding the severance of Attorneys for the Rothblatt clients, since the Government has contended that there may be conflicts of interest between, them. This is apparently because Barker has given some information to the Federal Government so far.

On the conclusion of the Motions on Bail the defendants were arraigned and released on differing bails. Our client was released on the same bail under the same conditions as the D.C. Superior Court bail situation, that is to say, \$30,000.00, 10% cash and the same travel restrictions as authorized by Judge Belson. The Judge then ordered that all Motions which were to be filed in the case, that is to say, all Pre Trial Motions were to be filed on or before, 15 days from that date or by October 3, 1972.

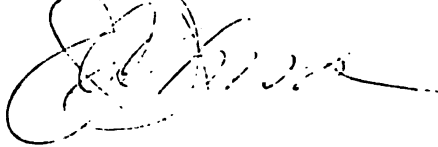
This would include Motions for DISCOVERY, Motions to SUPPRESS and Motions for DISMISSAL of INDICTMENTS based upon the previous motions. It was not indicated at that time as to when a trial date would take place as the Judge indicated that would be contingent upon his rulings on the various Motions.

At that time Bittman and Rothblatt indicated that they would bring a Motion to Disqualify the Judge, since he also had been the Judge who supervised the Grand Jury proceedings.

Following this, the Court instructed all Counsel with regard to Rule 100, paragraph 10 of the United States District Court Rules regarding extra-judicial statements.

I also, after the arraignment, conferred with Earl Silbert, who told me that he was disturbed by the fact that the labels on the equipment had been missing when delivered to him. I contacted McCord about this who told me that the labels had been removed after his return from jail after the arrest and that only indicated the name of the manufacture of the equipment. This was brought to the attention of Silbert who agreed to our original understanding regarding the fact that there would be no comment about the delivery of the equipment to him at any time.

Respectfully submitted



3.

Sept 22, 1973
Earl Silbert - to call like to
copy in 27 and 64/65 and 10/1
(10/1)

UNITED STATES DEPARTMENT OF JUSTICE

OFFICE OF THE UNITED STATES ATTORNEY

WASHINGTON, D. C. 20001

September 18, 1972

ADDRESS ALL MAIL TO:

UNITED STATES ATTORNEY
ROOM 3136-CUNITED STATES COURT HOUSE BUILDING
3RD AND CONSTITUTION AVENUE NW.IN REPLY, PLEASE REFER TO
INITIALS AND NUMBER
EJS/eh

Gerald Alch, Esquire
One Center Plaza
Boston, Massachusetts
02108

Dear Mr. Alch:

During the week beginning September 11, 1972, after discussion between Mr. Johnson of your office and myself, Mr. Johnson, after consulting with you, agreed to have the equipment which was received at the residence of your client, James W. McCord, Jr., in the early morning hours of June 17th, 1972 about 4:00 a.m. - in Rockville, Maryland, delivered to my office. This delivery was made on the afternoon of Friday, September 15, 1972. In return, it was agreed by myself that the fact of delivery would not be used against Mr. McCord, either in court or otherwise.

I wish to bring to your attention, however, the fact that when the receiver was delivered to my office, it was without the CEI label with its identifying numbers on the front, which, we understand, was on it when received at Mr. McCord's residence. We expect, accordingly, that the label will be delivered.

Sincerely,

200 30007
Earl J. Silbert
Principal Assistant
United States Attorney

"F"

TO: JUDGE SIRICA

19
March 10, 1973

Certain questions have been posed to me from your honor through the probation officer, dealing with details of the case, motivations, intent and mitigating circumstances.

Jim In endeavoring to respond to these questions, I am whiplashed in a variety of legalities. First, I may be called before a Senate Committee investigating this matter. Secondly, I may be involved in a civil suit, and thirdly there may be a new trial at some future date. Fourthly, the probation officer may be called before the Senate Committee to present testimony regarding what may otherwise be a privileged communication between defendant and judge, as I understand it; if I answered certain questions to the probation officer, it is possible such answers could become a matter of record in the Senate and therefore available for use in the other proceedings just described. My answers would, it would seem to me, to violate my fifth amendment rights, and possibly my 6th amendment right to counsel ~~representative~~ and possibly other rights.

Jim On the other hand, to fail to answer your questions may appear to be non-cooperation, and I can therefore expect a much more severe sentence.

Jim There are further considerations which are not to be lightly taken. Several members of my family have expressed fear for my life if I disclose knowledge of the facts in this matter, either publicly or to any government representative. Whereas I do not share their concerns to the same degree, nevertheless, I do believe that retaliatory measures will be taken against me, my family, and my friends should I disclose such facts. Such retaliation could destroy careers, income, and reputations of persons who are innocent of any guilt whatever.

Be that as it may, in the interests of justice, and in the interests of restoring faith in the criminal justice system, which faith has been severely damaged in this case, I will state the following to you at this time which I hope may be of help to you in meting out justice in this case:

1. There was political pressure applied to the defendants to plead guilty and remain silent.
2. Perjury occurred during the trial in matters highly material to the very structure, orientation, and impact of the government's case, and to the motivation and intent of the defendants.
3. Others involved in the Intergate operation were not identified during the trial, when they could have been by these defendants.

4. The Watergate operation was not a CIA operation. The Cubans may have been misled by others into believing that it was a CIA operation. I know for a fact that it was not.
5. Some statements were unfortunately made by witnesses which left the Court with the impression that I was giving untruths, or withholding facts of *my* ^{my} knowledge, when in fact only honest errors of memory were involved.
6. My motivations were different than those of the others involved, but were not limited to, or simply those offered in my defence during the trial. This is no fault of my attorneys, but of the circumstances under which we had to prepare my defence.

Following sentence, I would appreciate the opportunity to talk with you privately in chambers. Since I cannot feel confident in talking with an FBI agent, in testifying before a Grand Jury whose U.S. Attorneys work for the Department of Justice, or in talking with other government representatives, such a discussion with you would be of assistance to me.

I have not discussed the above with my attorneys as a matter of protection for them.

I give this statement freely and voluntarily, fully realizing that I may be prosecuted for giving a false statement to a Judicial Official, if the statements herein are knowingly untrue. The statements are true and correct to the best of my knowledge and belief.

James W. McCord, Jr.
James W. McCord, Jr.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Tuesday, July 17, 1973.

The subcommittee met, pursuant to recess, at 9:50 a.m. in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will please come to order.

This morning we are continuing our review of CIA Watergate activities, and we have as our witness Mr. Egil Krogh, former member of the White House staff, and his counsel Mr. Stephen N. Shulman.

Mr. Krogh, if you will rise and be sworn, we will proceed with the hearing.

[The oath was administered by Mr. Nedzi.]

Mr. NEDZI. Please be seated.

I am advised by counsel you have a statement you would like to make, Mr. Shulman, to the subcommittee.

Mr. SHULMAN. Yes, Mr. Chairman, thank you.

I simply wanted to say that as the subcommittee knows, Mr. Krogh is a very active subject of investigation by the grand jury in Los Angeles County, and by the grand jury here in the District of Columbia. As a result of that, I advised Mr. Krogh not to appear before this committee voluntarily, and he is appearing today in response to your subpoena.

I have advised him to invoke his privilege against self-incrimination with respect to all questions that are on or might bear upon the activities of the plumbers, which is the subject of the investigation before the grand jury. I am sure you will understand that with the law as it is with respect to links in a chain of evidence, that that will cause him to have to assert the privilege in response to questions that may appear somewhat remote from the plumbers unit, but that we feel could conceivably be part of a link in the chain, and in order to avoid any problem in his belaboring his privilege, he will therefore be advised by me to assert the privilege in response to those questions.

Mr. NEDZI. The Chair will state that the subcommittee appreciates the law and privileges to which the witness is entitled. However, it was the unanimous feeling of the subcommittee that, in order to have a complete record, it is necessary to subpoena those witnesses whom we felt had some information which might assist us in carrying out our responsibilities.

Consequently, it is the Chair's intention to pose questions to Mr. Krogh, at which time he may respond however he sees fit, or however he may desire to. However, you may desire to advise him.

Do any of the other members care to make any statement at this time?

Mr. Krogh, would you please state your full name?

TESTIMONY OF EGIL KROGH, FORMER WHITE HOUSE STAFF MEMBER, ACCOMPANIED BY STEPHEN N. SHULMAN, COUNSEL

Mr. KROGH. Yes, sir. My name is Egil Krogh, Jr.

Mr. NEDZI. Where and when were you born?

Mr. KROGH. I was born August 3, 1939, in Chicago, Ill.

Mr. NEDZI. Where do you live presently?

Mr. KROGH. 6949 Greenvale Street, N.W., Washington, D.C. 20015.

Mr. NEDZI. Are you currently employed?

Mr. KROGH. No, sir, I am not.

Mr. NEDZI. Are you an attorney?

Mr. KROGH. Yes, sir, I am.

Mr. NEDZI. What jurisdiction are you a member of the bar of?

Mr. KROGH. I am a member of the bar in Washington State.

Mr. NEDZI. Is that the only place?

Mr. KROGH. Yes, Mr. Chairman, it is.

Mr. NEDZI. Were you admitted to practice in the District of Columbia?

Mr. KROGH. No, sir, I was not.

Mr. NEDZI. Where were you employed over the past 10 years?

Mr. KROGH. The past 10 years, from 1962. January, through 1965 I was on active duty in the Navy. I attended Officers Candidate School from February 1962 until June 1962 then I was assigned to the U.S.S. *Yorktown*, CVS10. I served on board the *Yorktown* from July 1962 until June 1965, a period of 35 months, after which time I went to Seattle, Wash., where I enrolled in the University of Washington Law School. I served in law school from 1965 until 1968. During law school I worked part time as an associate or as a clerk in the law firm of Hullin, Ehrlichman, Roberts and Hodge in Seattle, Wash.

In my third year of law school, I was employed by Stanford Research Institute, and I did field study, South Vietnam, for 3½ weeks on the subject of South Vietnamese land reform. I worked——

Mr. NEDZI. This was while you were in law school?

Mr. KROGH. Yes, sir, that is correct, in 1967–68. I was in Vietnam from December 1967 until early January 1968, and came back——

Mr. NEDZI. Who was your employer at that time?

Mr. KROGH. Stanford Research Institute in California. I was a land law analyst for Stanford Research Institute. My specialty in law school had been land law, U.S. land law, and my interest in South Vietnam, the war, led me to this job with the Stanford Research Institute.

That was primarily to translate cases from the Vietnamese into French into English to determine whether or not in the land reform courts in South Vietnam due process had been distributed equally to tenants and land owners.

Mr. NEDZI. Do you speak and understand Vietnamese?

Mr. KROGH. No, sir, I do not. I had a translator with me at all times who spoke both Vietnamese, French and English. I had some familiarity with Vietnamese law at this point. I had had some study of it prior to going over there.

I returned, as I say, in January 1968, finished my third year of law school, and was admitted to the bar in August 1968, in Washington State, and I went to work full time in the law firm of Hullin,

Ehrlichman, Roberts and Hodge, in August of 1968, where I served until mid-November 1968.

Mr. Chairman, I would like to terminate my comment on my employment in the last 10 years at that point on the grounds any further answer might tend to incriminate me.

Mr. NEDZI. Were you an employee of the White House during the period 1971 and 1972?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. If you were such an employee, would you please state your position.

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. When did you cease employment at the White House?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. In 1971, Mr. Krogh, were you acquainted with a group in the White House now popularly called "the Plumbers"?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Are you or were you familiar with the White House Ellsberg inquiry?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Why were profiles requested on Mr. Ellsberg?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Do you know why the office of Mr. Ellsberg's psychiatrist was broken into?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Who was detailed to that operation?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Were you aware of any CIA equipment being used in the Ellsberg break-in?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. During your employment with the Ehrlichman law firm, did you work with Mr. Ehrlichman on cases?

Mr. KROGH. Yes, sir, I did.

Mr. NEDZI. What kind of cases did you work with him on?

Mr. KROGH. Primarily land use cases. Also, some environmental cases. Land use cases, by that I mean zoning cases, primarily those where we were engaged in attempting to prevent the development of an area that might be either a forest or agriculture use classification, from being downgraded to commercial or some other classification. That is the primary work I engaged in at that time.

Mr. NEDZI. Is the Ehrlichman to whom you referred, John Ehrlichman, a former employee of the White House?

Mr. KROGH. Yes, Mr. Chairman, that is correct.

Mr. NEDZI. Did you inform him of the Ellsberg break-in?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Do you know Mr. E. Howard Hunt?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Do you know Mr. David Young?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Do you know Mr. Haldeman, Harry Robbins Haldeman?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Do you know Mr. Richard Helms?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Do you know General Walters?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Do you know General Cushman?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Do you know Mr. Schlesinger, former Director of the CIA?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Do you know Mr. Colson?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Were you involved in any way in planning for the Watergate break-in?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Mr. Krough, who had overall supervision of the plumbers?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Do you know how the plumbers were funded?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. When was this unit founded or formed?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. To your knowledge, did President Nixon ever ask Mr. Hoover to provide FBI assistance to you for certain projects?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Did you ever have any dealings with the CIA during your employment at the White House?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Do you know Mr. Gordon Liddy?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Did you receive any reports, intelligence reports, on Ellsberg from the FBI?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Were you aware of Mr. Hunt contacting the CIA for assistance?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Did you ever direct anyone to contact the CIA?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Was there any regular liaison between the so-called plumbers and the CIA?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Were you ever assisted by the CIA, by way of conducting polygraph tests on State Department employees in 1971?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Were you the one who authorized the break-in of Dr. Fielding's office?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Who was involved in that break-in?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Did you tell Mr. Ehrlichman or Mr. Haldeman that the office was going to be broken into?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Did you ever tell Mr. Dean that the order for the break-in came from right out the oval office?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Do you know what the Cubans were told as to the purpose and legality of the entry of Dr. Fielding's office?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Did you ever ask Mr. Colson for funds relative to the California trip that culminated in the Fielding break-in?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Were you ever assigned to investigate leaks to reporters relative to the SALT talks?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds that my answer might tend to incriminate me.

Mr. NEDZI. Did you recommend Mr. Liddy to John Dean for employment as an attorney in the Re-Elect Committee's intelligence operation?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Do you know Mrs. Claire Lee Chennault?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Do you have any role relative to the so-called Huston interagency intelligence gathering project?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Do you have any questions, Mr. Chairman?

Mr. HÉBERT. Yes. I would like to review a question the chairman has asked, Mr. Krogh. I am asking these questions in view of what I understand your replies are. However, I want to be positive that your replies are responsive to what we are trying to ascertain, and that is the CIA part. We are not interested in the plumbers. We are not interested in Watergate. We are interested as it pertains to this committee's investigation.

Therefore the questions I want to ask you—and I recognize what your answer will be, but I want them clear for the record.

No. 1, you refuse to answer you were employed at the White House on the ground it might incriminate you?

Mr. KROGH. That is correct.

Mr. HÉBERT. That the committee is to understand it might incriminate you to say you were an employee of the White House when everybody else knows it, everybody knows you were employed at the White House, and that would incriminate you for you to admit it?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. HÉBERT. Did you at any time know, participate, ask, or suggest that the CIA be used as a vehicle to coverup the Watergate incident?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. HÉBERT. Therefore the committee is to understand that you did not have knowledge, you did not suggest, you did not indicate, or in fact had no part of the CIA business at all, that you are thoroughly familiar with it, that you can tell this committee you knew nothing about it that would tend to incriminate you.

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. Mr. Arends.

Mr. ARENDS. No questions.

Mr. NEDZI. Mr. Price.

Mr. MELVIN PRICE. No questions.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. I decline to ask.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. Thank you.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. NEDZI. I have no further questions.

We want to thank you for coming before the committee, Mr. Krogh, and the subcommittee will stand recessed—

Mr. HÉBERT. Just one question.

In other words, Mr. Krogh, what I am trying to find out is for you to admit here you are absolutely innocent of any CIA involvement, would incriminate you? If you say you are innocent and didn't know anything about it?

Mr. KROGH. Yes.

Mr. HÉBERT. That would incriminate you?

Mr. SHULMAN. Yes.

Mr. HÉBERT. That is a new approach to the fifth, and I have been here for 25 years.

Mr. SHULMAN. Answering that question yes would tend to incriminate him.

Mr. HÉBERT. I recognize that. I have been listening to this for 25 years. I go back to the days when Mr. Nixon was on the Un-American Activities Committee with me. We heard a good deal of the fifth amendment. The witness would not say it would incriminate him to say he was innocent, this is the first time.

Mr. SHULMAN. The problem, Mr. Chairman, one answer excludes a certain area which therefore brings into play questions into another area and you get started on the link in the evidence route that I described at the outset. It is very unfortunate.

Mr. HÉBERT. I appreciate your position, but I am sitting on this side of the table, and I just want the record to show that this is the first time, certainly in my many years of experience up here. I have heard anybody take the fifth on the grounds of saying he was innocent would tend to incriminate him.

Mr. NEDZI. Mr. Krogh, were you aware of any bugging that was taking place within the White House, in the President's office, in the cabinet room?

Mr. KROGH. Mr. Chairman, I must decline to answer that question on the grounds my answer might tend to incriminate me.

Mr. NEDZI. The subcommittee will stand recessed until further call of the Chair.

[Whereupon, at 10:12 a.m. the subcommittee recessed, subject to call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Wednesday, July 18, 1973.

The subcommittee met, pursuant to recess, at 10:45 a.m., in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will please come to order.

We are continuing our inquiry into the CIA Watergate affair, and this morning we have as our witness Mr. David Young, former White House staff member, who is appearing with his counsel, Mr. Anthony A. Lapham.

Mr. Young, if you will rise and be sworn, please.

[The oath was administered by Mr. Nedzi.]

Mr. NEDZI. Please be seated.

Do either of you gentlemen have any statement to make before the subcommittee commences its questioning?

Mr. LAPHAM. Mr. Chairman, I have a very brief statement to make on Mr. Young's behalf, if that procedure is agreeable with this committee.

Mr. NEDZI. You may proceed.

Mr. LAPHAM. On the strength of my advice, Mr. Young this morning will be asserting his fifth amendment privilege to remain silent in the face of questions that might have a possible tendency to incriminate him.

In the present state of the law, as I understand it, Mr. Young cannot answer a question as to the existence or nonexistence of a fact without running the risk of losing his privilege as to the existence or nonexistence of any related fact.

Further, according to my understanding, the matters about which this subcommittee desires to examine Mr. Young, namely, in general, the contacts that he may have had with CIA personnel in connection with a 1971 investigation into the distribution and disclosure of the so-called Pentagon Papers, and the extent of any CIA involvement in that investigation, are closely related to matters and activities as to which Mr. Young himself is subject to investigation by a Federal grand jury sitting in the District of Columbia and a California grand jury sitting in Los Angeles.

In consequence, by reason of the apparent relationships between the matters that are of interest to this committee and the matters involved in pending grand jury investigations, Mr. Young will be asserting his fifth amendment privilege as to all questions except those of a general background nature.

As a lawyer, I do say to you that my advice with respect to the assertion of the fifth amendment privilege before this subcommittee has not been easy to give, and I think that it is fair to say on Mr. Young's part that it has not been easy advice to take.

As a former National Security Council staff member, Mr. Young feels some real responsibility to assist this subcommittee in its work. Certainly Mr. Young recognizes the importance of the present inquiry being conducted by this subcommittee and of the issues that are part of that inquiry. So it is with real regret, therefore, that Mr. Young has concluded that the assertion of his fifth amendment privilege is the most prudent course for him to follow given the status of the pending grand jury investigations and the resulting uncertainty in his legal position.

As the members of the subcommittee may know, Mr. Young will shortly be testifying before the Senate Select Committee on Presidential Campaign Practices. His testimony will be given to that committee under conditions of immunity, pursuant to an order entered by Judge Sirica in the U.S. District Court for the District of Columbia on July 5, 1973.

If the record now being made by this subcommittee is still open when Mr. Young appears before the Senate Select Committee, it may well be that his testimony in that forum will go at least some way toward providing this subcommittee with the information that it would consider helpful and relevant in its own inquiry.

Thank you, sir.

Mr. BRAY. You are making that statement as his counsel?

Mr. LAPHAM. Yes, sir, I am.

Mr. NEDZI. Is Mr. Young scheduled to testify before the Senate Select Committee?

Mr. LAPHAM. There is not a date scheduled at this time. He is scheduled to appear before an executive session of that committee tomorrow at 5 o'clock. Beyond that, the date of his public appearance has not been set.

Mr. BOB WILSON. Has he been granted immunity, as Mr. Dean was granted immunity?

Mr. LAPHAM. Yes, sir, he has, and under the same statute and under the same conditions as Mr. Dean had, pursuant to title 18 of the United States Code, section 6002.

Mr. NEDZI. Does anybody else have any questions?

[No response.]

Mr. NEDZI. Would you please state your full name?

TESTIMONY OF DAVID YOUNG, FORMER WHITE HOUSE STAFF MEMBER; ACCOMPANIED BY ANTHONY A. LAPHAM, COUNSEL

Mr. YOUNG. David Reginald Young.

Mr. NEDZI. And when and where you were born, Mr. Young?

Mr. YOUNG. I was born November 10, 1936, in Jersey City, N.J.

Mr. NEDZI. Where do you live at the present time?

Mr. YOUNG. Presently I live at 3217 Fox Hill Road, Northwest, Washington, D.C.

Mr. NEDZI. What is your current employment?

Mr. YOUNG. I'm really between jobs at the present time. I am unemployed.

Mr. NEDZI. How are you supporting yourself?

Mr. YOUNG. By my savings.

Mr. NEDZI. Are you a lawyer?

Mr. YOUNG. Yes, I am.

Mr. NEDZI. Of which jurisdiction are you a member of the bar?

Mr. YOUNG. I'm a member of the Bar of New York and the District of Columbia.

Mr. NEDZI. Where did you go to school?

Mr. YOUNG. I went to undergraduate to a small college in the Midwest, Wheaton College in Illinois. I received my bachelor of science degree in physics there. I then went to Cornell Law School and did a year.

Mr. NEDZI. Could you give us some dates on when you attended these schools?

Mr. YOUNG. Following Wheaton I went in the Army. When I came out of the service I went to Cornell for 1 year, in 1962.

Mr. NEDZI. When was your military service?

Mr. YOUNG. 1959, 1960, and 1960-1961 is Cornell Law School. 1961-63 is Oxford University in England, doing law again. I received my law degree there and I came back to Cornell, 1963-64. I finished my law degree at Cornell, and then in 1965 I began practicing law in New York City in 1965.

Mr. NEDZI. Were you practicing on your own, or were you a member of a firm?

Mr. YOUNG. I was associated with a large New York law firm.

Mr. NEDZI. Which one?

Mr. YOUNG. Milbank, Tweed, Hadley & McCloy.

Mr. NEDZI. And how long were you employed with them?

Mr. YOUNG. For approximately October, November 1965, until December 1969, a little over 4 years.

Mr. NEDZI. And where did you become employed in December of 1969?

Mr. YOUNG. During that period, the 4 years with Milbank, I became acquainted with Dr. Kissinger. I came to the White House staff as his administrative assistant in December 1969.

Mr. NEDZI. When were you employed by the National Security Council?

Mr. YOUNG. At that time. When I say I came to Dr. Kissinger's staff, I mean as a member of the National Security Council. I think it was like December 30, 1969.

Mr. NEDZI. How long were you employed in that capacity?

Mr. YOUNG. I would think that is starting to get into the area where I believe, on advice of counsel, I must respectfully decline to answer your question on the grounds of my fifth amendment privilege.

Mr. NEDZI. What was your responsibility when you were employed by Dr. Kissinger?

Mr. YOUNG. Again, Mr. Nedzi, on advice of counsel, I respectfully decline to answer that question on the grounds of my fifth amendment privilege.

Mr. BOB WILSON. Mr. Chairman, I wonder if the witness could state specifically what the fifth amendment privilege is in his mind.

Mr. YOUNG. The fifth amendment privilege, against self-incrimination, my right to remain silent, or against possible self-incrimination, my right to remain silent.

Mr. NEDZI. Is it your belief that in responding to the question I put you will incriminate yourself?

Mr. LAPMAN. Mr. Chairman, I wonder if I could make a comment on that before Mr. Young answers that question.

Mr. NEDZI. The question was put to Mr. Young, whether he believes that it would incriminate him to respond to my question.

Mr. YOUNG. I'm reluctant to answer, sir, because I don't know whether that will go into the whole question of waiver. I have to state, I think, I stand by my general statement that I must decline to answer questions concerning periods of when I came to the White House. I respectfully, and, as counsel stated, reluctantly, on the grounds of possible self-incrimination, stand on my fifth amendment right to remain silent because of that possibility.

Mr. NEDZI. What were your responsibilities when you served in the Army?

Mr. YOUNG. I had gone through ROTC in college and I was commissioned upon graduation as a second lieutenant, and I was in the Armored Branch at Fort Knox, and at that time I had the choice of 2 years, 2 years with 3 years' Reserve, and 6 month with 7 years' Reserve. I was going to go to law school, so I picked the 6 months with 7 years' Reserve.

My responsibilities during that 6 months with the Armored School, schooling enlisted men coming through, and I think it was the 33d Armored Division at Fort Knox, Ky., as a lieutenant, and I headed a 32-tank battalion.

Mr. NEDZI. You served on active duty in that 6 months?

Mr. YOUNG. The 6 months, pursuant to my ROTC.

Mr. NEDZI. And subsequent to leaving active duty you became a member of the Active Reserve?

Mr. YOUNG. One of the Reserve units, yes, while I was in law school, and a control group while I was in Europe, while I was in Oxford. Then I came back in another Reserve unit, at Cornell, a control group.

Mr. NEDZI. Are you still in a Reserve unit?

Mr. YOUNG. No. That was completed in, I guess, 1968 or 1969, the assignment to those control groups.

Mr. NEDZI. How much time did you spend actually with a Reserve unit?

Mr. YOUNG. I don't know, sir. I was attached to a unit at Cornell while I was there for that year, and for 2 years when I was in Europe at Oxford, I was in a control group, as I understand it, and then when I came back to Cornell there was difficulty or delay in being put into a unit there, and, as I recall, I was carried on a control group, and I really have to refresh my recollection as to the details of that, but that's it basically, as I remember it.

Mr. NEDZI. But you remember being with an active Reserve unit only 1 year?

Mr. YOUNG. The first year, when I went to Cornell, after I was in the Army. That is correct.

Mr. NEDZI. Were you acquired in 1971 with a group in the White House known as, or now popularly called "the Plumbers"?

Mr. YOUNG. Again, Mr. Nedzi, I think that is an area where I must, on the advice of counsel, respectfully decline to answer the question on the grounds of asserting my fifth amendment privilege.

Mr. NEDZI. Can you give us any idea why you were selected for membership in this unit?

Mr. YOUNG. Again, Mr. Nedzi, I must, on advice of counsel, decline to answer your question on the grounds of asserting my fifth amendment privilege.

Mr. NEDZI. To your knowledge, Mr. Young, did the President ask FBI Director Hoover to provide FBI assistance to you for certain projects?

Mr. YOUNG. Again, Mr. Nedzi, my answer would be the same as my previous answer.

Mr. NEDZI. Did "the Plumbers" have a regular liaison with the FBI?

Mr. YOUNG. Again, Mr. Nedzi, my answer is the same as my previous answer.

Mr. NEDZI. Was there a regular liaison in the CIA?

Mr. YOUNG. Again, Mr. Nedzi, I must respectfully decline to answer, on the grounds of my fifth amendment privilege.

Mr. NEDZI. Which individuals had knowledge of "the Plumbers" unit?

Mr. YOUNG. Again, Mr. Nedzi, I must respectfully decline to answer, on the grounds of my fifth amendment privilege.

Mr. NEDZI. Do you know Mr. Haldeman?

Mr. YOUNG. I must respectfully decline to answer the question on the grounds of my fifth amendment privilege.

Mr. NEDZI. Do you know Mr. Ehrlichman?

Mr. YOUNG. My answer, Mr. Nedzi, is the same as my previous answer.

Mr. NEDZI. Do you know Mr. Colson?

Mr. YOUNG. My answer is the same as my previous answer.

Mr. NEDZI. Do you know Mr. Dean?

Mr. YOUNG. My answer is the same as my previous answer.

Mr. NEDZI. Do you know Mr. Helms?

Mr. YOUNG. My answer is the same as my previous answer.

Mr. NEDZI. Do you know Mr. Schlesinger?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Do you know Mr. Hunt?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. What was Mr. Hunt's role with "the Plumbers"?

Mr. YOUNG. Mr. Nedzi, I must respectfully decline to answer your question on the grounds of my fifth amendment privilege, on advice of counsel.

Mr. NEDZI. What was Mr. Liddy's role in "the Plumbers"?

Mr. YOUNG. My answer, Mr. Nedzi, is the same as my previous answer.

Mr. NEDZI. Do you know Mr. Liddy?

Mr. YOUNG. My answer, Mr. Nedzi, must be the same as my previous answer.

Mr. NEDZI. Did you receive information to the effect that Daniel Ellsberg was about to leak the Ellsberg papers to the embassy of an unfriendly country?

Mr. YOUNG. Mr. Nedzi, my answer must be the same as my previous answer.

Mr. NEDZI. Were you aware of Mr. Hunt's contacting the CIA in late July of 1971 and thereafter to request certain materials.

Mr. YOUNG. I must respectfully decline to answer your question, Mr. Nedzi, on the grounds of my fifth amendment privilege.

Mr. NEDZI. Was Mr. Hunt's contact in July of 1971 with the CIA made at your direction?

Mr. YOUNG. I must respectfully decline to answer your question on the grounds of my fifth amendment privilege.

Mr. NEDZI. Was it your understanding that Mr. Ehrlichman contacted the CIA to clear Hunt's request?

Mr. YOUNG. My answer must be the same as my previous answer, Mr. Nedzi.

Mr. NEDZI. Do you have any idea of the ultimate purposes to which Hunt intended to put the CIA-provided material?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Did you request Hunt to secure equipment from the CIA for the purpose of the break-in at the offices of Ellsberg's psychiatrist?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Were you the one who authorized the break-in at Dr. Fielding's office?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Which persons comprised the entry team of Dr. Fielding's office?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Did Mr. Ehrlichman have prior knowledge of the Fielding break-in?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Did you advise Mr. Ehrlichman after the break-in?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. What was Mr. Krogh's role in the break-in?

Mr. YOUNG. Again, Mr. Nedzi, I must respectfully decline to answer, on advice of counsel, and assert my privilege of possible self-incrimination under the fifth amendment.

Mr. NEDZI. What were the Cubans told as to the purpose and legality of the project?

Mr. YOUNG. Again, Mr. Nedzi, I must respectfully decline to answer, on advice of counsel, and assert my privilege under the fifth amendment.

Mr. NEDZI. What was the nature of your request to the CIA?

Mr. YOUNG. My answer, Mr. Nedzi, is the same as my previous answer.

Mr. NEDZI. Was Dr. Kissinger, for whom you worked, involved in any way with your contacts with the CIA?

Mr. YOUNG. My answer is the same as my previous answer, Mr. Nedzi.

Mr. NEDZI. Do you know Dr. Malloy of CIA Medical Services?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Do you know Dr. Tietjen?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Did you ever participate in meetings with this CIA relative to development of the Ellsberg profile?

Mr. YOUNG. My answer must be the same as my previous answer, Mr. Nedzi.

Mr. NEDZI. Was General Cushman aware of the preparation of the Ellsberg profile by the CIA?

Mr. YOUNG. Again, Mr. Nedzi, I must respectfully decline to answer, on the advice of counsel, your question, and assert my fifth amendment privilege, on the grounds of incrimination.

Mr. NEDZI. Do you know Kathleen Chenow?

Mr. YOUNG. My answer is the same as my previous answer.

Mr. NEDZI. Were you involved in any way relative to the Huston interagency domestic intelligence gathering project?

Mr. YOUNG. My answer must be the same as my previous answer, Mr. Nedzi.

Mr. NEDZI. Did you request the State Department to authorize Mr. Hunt to copy cables relating to the fall of the Vietnam Government?

Mr. YOUNG. My answer, Mr. Nedzi, must be the same as my previous answer.

Mr. NEDZI. Did John Dean ask you to store some Hunt papers in your office?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Mr. Bray, do you have any questions?

Mr. BRAY. No questions.

Mr. NEDZI. Mr. Wilson?

Mr. BOB WILSON. No questions.

Mr. NEDZI. Were you involved in any way in planning for the Watergate entries?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Were you aware that CIA equipment was used in the Watergate break-in?

Mr. YOUNG. My answer must be the same as my previous answer.

Mr. NEDZI. Do you have anything else, Mr. Hogan?

Mr. HOGAN. No, sir. Thank you, Mr. Chairman.

Mr. NEDZI. Do either of you desire to make any additional statement for the record before the subcommittee recesses?

Mr. LAPHAM. I have nothing further, Mr. Chairman.

Mr. NEDZI. The subcommittee will stand in recess until 10 o'clock tomorrow.

[Whereupon, at 10:45 a.m. the subcommittee recessed, to reconvene at 10 a.m. on Thursday, July 19, 1973.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Thursday, July 19, 1973.

The subcommittee met, pursuant to recess, at 10:15 a.m., in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will please come to order.

This morning we are continuing our hearings into the CIA-Watergate-Ellsberg matter, and we have as a witness Mr. John Dean III, former White House counsel. With Mr. Dean is his attorney, Mr. Charles Shaffer.

Mr. Dean, will you please rise and take the oath?

[The oath was administered by Mr. Nedzi.]

Mr. NEDZI. Please be seated.

Mr. SHAFFER. If it please the Chairman, before you begin interrogation of my client, may I read a brief letter setting forth our position in this matter?

Mr. NEDZI. You may proceed.

Mr. SHAFFER. Thank you.

The letter is dated July 18, and is addressed to you as chairman of this committee:

DEAR CONGRESSMAN NEDZI: In the strongest terms possible, we wish to register an objection in behalf of our client, John W. Dean III, who is scheduled to appear before your subcommittee in executive session on Thursday, July 19, 1973.

As lawyers for Mr. Dean charged with the guardianship of his legal welfare, and as officers of the court, we respectfully call your attention to the fact that the executive branch is conducting a grand jury inquiry and as late as May 22, 1973, in an unusual but nonetheless official communication, the U.S. attorney and his assistants then in charge of the inquiry, advised our client that they intended to seek his indictment and would not drop charges against him but would permit a guilty plea to a one-count indictment charging a conspiracy to obstruct justice. The content of this letter, a copy of which we attach, insofar as it relates to the intention of Hon. Archibald Cox to prosecute our client, has been affirmed on a number of occasions since, particularly in appearances before Hon. John J. Sirica and Charles R. Richey, judges of the U.S. District Court for the District of Columbia.

In addition, while our client has given testimony to the Senate under the "use" immunity provisions of title 18, United States Code, section 6005, it is our legal opinion that Mr. Dean is not free to repeat the testimony he has given in another forum at will or under subpoena with the protected result which obtains under the section quoted. Moreover, should Mr. Dean be questioned before your subcommittee about other matters not covered in his testimony before the Senate, we believe that a waiver would occur as contemplated in *Ellis v. United States*, 416 F.2d 791 (1969), which reads, and the pertinent part, as follows:

Once a witness has voluntarily spoken out we do not see how his protected interest is jeopardized by testifying in a subsequent proceeding.

Under the circumstances of our client facing a Federal prosecution as he does, we have no choice as his lawyers except to advise him to assert his constitutional rights under the fifth amendment to each and every substantive question which you or the members of your subcommittee may choose to ask him when he appears.

We also think you ought to give consideration about the useless generation of pre-trial publicity because of your enforcement of the subpoena at this time requiring our client to appear knowing he has no other legal choice except as we have outlined. We are sure that even though your proceedings are scheduled to be held in executive session there will be publicity about the fact that Mr. Dean has asserted his fifth amendment rights. We are confirmed in this view by the chairman's news conference yesterday resulting in a publication in the national media that the witness who appeared on Tuesday invoked his constitutional prerogatives.

Given these facts and circumstances, we respectfully request that Mr. Dean be excused from appearing and testifying before your subcommittee on Thursday, July 19, 1973. Respectfully submitted.

Mr. NEDZI. Mr. Shaffer, why wasn't that letter presented to the subcommittee before the convening of this session?

Mr. SHAFFER. The letter was not presented before that because it was written yesterday, and it was written yesterday because my client and myself did not have an opportunity to sooner confer.

However, in speaking with a member of your staff on the telephone on Monday from New York, I indicated all these factors, not in the detail that I have spelled out, with respect to the letter, but I indicated that our client would take his constitutional prerogatives, and, nevertheless, we were required to come and make arrangements for Thursday.

I offer the letter for the content that it says: We have no choice other than to take the position we take.

We are not here voluntarily. We are here under subpoena, and we particularly object because of the fact that we will face a Federal prosecutor, that when we leave here there will be a statement in the public media as to what our position was in executive session, and we already know that that will be the fact, because the court reporters told us as we walked in, that they anticipated that that's what we would do, and that they had gotten that from the committee staff, to which I made no comment.

Mr. NEDZI. Mr. Shaffer, I'll state, and I'll put the question to the subcommittee, and perhaps at this point the subcommittee should go into a private session for the purpose of discussing this issue.

[Whereupon, the subcommittee was in private session from 10:20 a.m. until 10:35 a.m.]

Mr. NEDZI. Mr. Shaffer, the subcommittee has resolved that Mr. Dean is here pursuant to orderly proceedings of the subcommittee, that your objections certainly were not timely made. They could have been conveyed to the subcommittee yesterday, prior to the convening of this session this morning.

In order to further set the stage for the hearing, I have asked counsel to review our correspondence and his recollection of his conversations with you, and I'll ask counsel to proceed along those lines at this time.

Mr. HOGAN. Thank you, Mr. Chairman.

Our record shows that we invited by letter to Mr. Dean his appearance before this subcommittee, and we received the following reply, dated June 5, 1973:

DEAR MR. NEDZI. We acknowledge the invitation outlined in your letter of May 22, 1973, for our client, John W. Dean, III, to appear as a witness before the Intelligence Subcommittee of the House Armed Services Committee regarding what our client may know relative to the involvement of the Central Intelligence Agency in certain aspects of the so-called Watergate case.

As I am sure you know, our client is scheduled to appear before Senator Ervin's committee and it is anticipated our client will testify on these matters during his appearance before that tribunal which, we understand, unanimously voted to confer use immunity.

Inasmuch as the rule peculiar to your circuit enunciated in *Ellis v. United States*, and the citation is there, is to the effect:

Once a witness has voluntarily spoken out, we do not see how his protected interest is jeopardized by testifying in a subsequent proceeding * * *.

We are advising our client not to accept your invitation to testify at this time lest our client later not be in a position to validly exercise his fifth amendment privilege as a condition precedent to the use immunity which Senator Ervin's committee plans to confer under the provisions of title 18, section 6005, United States Code.

We trust you will understand the reason why we have so advised our client.

We apologize for not responding sooner to your letter but it only came to our attention yesterday.

Respectfully, and it's signed by Mr. Shaffer.

Mr. Shaffer. That's my letter.

Mr. HOGAN. Right.

Then, in response to that we had served a subpoena, Mr. Chairman, and thereafter you received a letter from the chairman of the Ervin Committee, Mr. Sam Ervin; dated June 12, 1973:

DEAR MR. CHAIRMAN: I appreciate your taking the time to speak with me today about your subcommittee's desire to call Mr. John Dean as a witness. As I stated to you Mr. Dean has been under a subpoena of the Select Committee for over a month. He is a key witness and can assist the committee immensely in the quest to find the truth. Mr. Dean is scheduled to testify before the Select Committee on Tuesday, June 19.

I should like to point out that Mr. Dean has been unable to testify before the Select Committee simply because the Justice Department has insisted upon delaying the granting of his immunity under title 18 United States Code section 6005. However, this obstacle has now been removed since Judge Sirica today signed an order granting immunity to Mr. Dean under the above-cited code section.

It occurs to me and the other members of the Select Committee that if Mr. Dean appears before your subcommittee he will be forced to exercise his constitutional right to remain silent under the fifth amendment. His appearance therefore would serve no useful legislative purpose, but would tend to discredit him before he appears before our committee.

Moreover, I should like to emphasize that the Senate Appropriations Committee, under the chairmanship of Senator McClellan, and the Senate Armed Services Committee, under the acting chairmanship of Senator Symington, have acceded to the Select Committee's request that Mr. Dean not be called before their respective committees until he has completed his testimony before our Select Committee.

Therefore, it is with the greatest respect that I urge you also to postpone calling Mr. Dean before your subcommittee until the Select Committee has completed its examination of Mr. Dean in public session.

Sincerely,

SAM J. ERVIN, JR.,
Chairman.

In response to that letter, Mr. Chairman, you wrote the following letter on June 13, 1973, to the Hon. Sam J. Ervin, Jr., Chairman, Select Committee on Presidential Campaign Activities:

DEAR MR. CHAIRMAN: This will acknowledge your letter of June 12, 1973 containing a request that we postpone requiring Mr. John Dean's appearance before this subcommittee at 10 a.m. on June 15, 1973 until after your Select Committee on Presidential Campaign Activities has received his testimony in public session.

The subcommittee voted this date to honor that request provided there is a clear understanding that Mr. Dean will appear before us at an early date after his testimony before your Select Committee and that Mr. Dean confirms this understanding in writing delivered to us no later than 9:30 a.m., Friday, June

15, 1973. Otherwise, we fully expect that Mr. Dean will appear in answer to our subpoena as indicated on its face.

Sincerely, Lucien N. Nedzi, Chairman, Special Subcommittee on Intelligence.

Mr. Chairman, in response to that correspondence, in a letter dated June 14, 1973, addressed to you, Mr. McCandless states as follows:

DEAR CHAIRMAN NEDZI: On behalf of our client, Mr. John W. Dean III, we respectfully request that Mr. Dean be excused under the subpoena issued and delivered to him on Tuesday, June 12, 1973, for his appearance before your subcommittee on Friday, June 15, 1973, at this time. We make this request so so that we may honor an outstanding subpoena served upon Mr. Dean by the Senate Select Committee on Presidential Campaign Activities. We promise that after Mr. Dean's appearance before that Senate Select Committee, but waiving no constitutional rights, to have Mr. Dean appear under the subpoena issued by your subcommittee as soon thereafter as your subcommittee needs and requests his appearance.

We appreciate your understanding and helpfulness in this matter. Signed, Robert C. McCandless, Charles N. Shaffer, Shaffer, McKeever and Fitzpatrick.

Mr. SHAFFER. That's Mr. McCandless' letter. I would like to acknowledge that.

Mr. HOGAN. Then, in response to that promise, Mr. Chairman, you will recall that we agreed that we would like to have Mr. Dean appear last Monday, and last Friday I called Mr. McCandless after our meeting on Friday and informed him of that.

Mr. BOB WILSON. Who is Mr. McCandless?

Mr. SHAFFER. He's cocounsel, or was then cocounsel for Mr. Dean.

Mr. BOB WILSON. Is he not still cocounsel?

Mr. SHAFFER. Yes; he is. But I mean he was cocounsel in writing the letter that he wrote.

Mr. BOB WILSON. Is he a senior partner of your firm?

Mr. SHAFFER. No, sir, he is not. He is not associated in the practice of law with me. He's just cocounsel in this case.

Mr. BOB WILSON. I see.

Mr. HOGAN. I informed Mr. McCandless of the committee's desire.

Mr. BRAY. By telephone?

Mr. HOGAN. By telephone, and shortly after our meeting last Friday when this decision was made, and I told him that we would like to have Mr. Dean appear on Monday, and if it was impossible because of impossibilities, then we had alternate dates, but Monday was the day that we would like if possible.

He said, "Well, Mr. Dean is out of town, and I expect him back in town Sunday." I said, "Let me give you my home phone, and as soon as you contact Mr. Dean let me know so that I may inform Mr. Nedzi and the subcommittee, in view of the imminence of the meeting."

I never received a call from Mr. McCandless at all. I checked my telephone to see if it was operating, and it was.

Monday morning I called Mr. McCandless' office——

Mr. NEDZI. Excuse me, Mr. Hogan. You called me first, later in the evening. It was late Sunday night.

Mr. HOGAN. Yes; I called the chairman and informed him of these circumstances.

Last Monday morning I called Mr. McCandless' office three times, requesting that I be called back, and I never received a call back. I didn't talk to him. I talked to somebody on the switchboard. I be-

lieve, the first time; and the second time, the same person; and the third time, the same person, to the best of my recollection. They were going to leave a message with Mr. McCandless' secretary.

Then I received a call from Mr. Shaffer's office, and the secretary informed me that she was going to inform Mr. Shaffer in New York of the circumstances. Then I received a call from Mr. Shaffer, I believe confirming the fact that he was in New York and that he had heard of the circumstances and he didn't know of them. I made the statement that I had informed you all, and he said, "Well, you didn't inform me." I was a little surprised because I thought notice to counsel would be notice to Mr. Shaffer, but he didn't agree to that, and notice to Mr. Dean.

Then I received another call from Mr. Shaffer. I believe this was in the chairman's office. And the agreement was made to meet this morning at 10 a.m. in executive session.

That, Mr. Chairman, sums up, I believe, the circumstances leading to this meeting.

Mr. NEDZI. Subsequently there was some correspondence received from Mr. Ervin.

Mr. HOGAN. Yes, Mr. Chairman. I'm sorry.

On June 18, 1973, the following letter:

HON. F. EDWARD HÉBERT,
Chairman, Armed Services Committee,
House of Representatives, Washington, D.C.

DEAR ED: I will always be grateful to your aid in persuading one of your subcommittees to postpone the interrogation of John W. Dean, III until the Senate Select Committee has an opportunity to examine him.

With all kind wishes, I am,

Sincerely yours,

SAM J. ERVIN, JR.

Mr. NEDZI. The Chair will state that the chairman of the subcommittee received a similar letter at that time.

Mr. BRAY. Do you have a copy of it?

Mr. NEDZI. I think I have it in my files, in my office.

Mr. SHAFFER. Mr. Chairman, may I make a very brief remark with respect to my participation on Monday?

Mr. NEDZI. Certainly.

Mr. SHAFFER. Thank you. Would you prefer it under oath? I would be glad to give it under oath if that would be appropriate.

[The oath was administered by Mr. Nedzi.]

Mr. SHAFFER. Mr. Chairman, of all the letters that Mr. Hogan read, I acknowledge as being written either by Mr. McCandless or myself, and I have received copies of the letter that Mr. McCandless wrote.

Following the appearance of our client before the Senate Select Committee, he left to an undisclosed place for security and other reasons, and I did not see him at all during last week. I had two telephone conversations with him, and they were very brief, and they related to when he was returning. I myself took a brief vacation following our appearance before the committee and I went to upstate New York. I did return to my office in Rockville during last week, and I did know that my client was to return Sunday evening, and I participated in those arrangements with him.

I had no knowledge before I spoke with Mr. Hogan on the telephone on Monday from New York—when I journeyed to New York Sunday night in connection with another case. I received a telephone call Monday morning at an office where I was in New York, Fifth Avenue and 42d Street, from my secretary informing me that we were due before your committee at that very time, and I asked her who advised her, and she said she received a call from Mr. McCandless's secretary, and that Mr. Hogan had called my office. I took the particulars, with respect to how I could get in touch with Mr. Hogan, and immediately called, as he testified.

Substantially, I recall the conversation as he did; in that he said, he was upset. I understood why he would be upset if he expected us and we weren't here. I said the fact of the matter was that I had not been advised by Mr. McCandless that these arrangements were being made for Monday and that it was a surprise to me, that I physically was in New York, and he was talking about a Tuesday appearance, I believe. I said I realized that under the circumstances I shouldn't be making a request; but there was no way for me to return from New York on Monday without serious consequences to the matter I was then handling in New York; that I would be back during Wednesday, and could we appear on Thursday.

He left the phone and came back and said, yes, we could appear on Thursday.

That covers my recollection of those events.

I want to say this: Of course, I want to apologize, as I did to you at the table informally when you walked into the room, with respect to Monday.

No. 2, I want to say that the committee certainly, I don't believe, can't believe that we weren't going to exercise our constitutional rights, in all of this correspondence with respect to the delayed date. From our standpoint, you were seeking our appearance at a time when we were preparing for the Ervin Committee appearance. Our advice to our client would be the same, with respect to the fifth amendment, as Senator Ervin pointed out, had we taken the fifth on that occasion, had it become public, it would have affected credibility with respect to our client's appearance.

I don't think there is anywhere in the correspondence a departure from the principle, or even a misleading of this committee, that if we were allowed to appear before the Ervin Committee first and then appear here we would give testimony.

Mr. NEDZI. I don't think anybody suggested that.

Mr. SHAFFER. I just want it clear that that's the way I understand it. So that it should be no surprise to the committee this morning that the content of my letter is to the effect that we will advise our client to exercise his constitutional prerogative.

That's all I want to say.

Mr. NEDZI. There was more in your letter than merely the statement that you were going to exercise your constitutional prerogative.

Mr. SHAFFER. No, but that's the substance of it, before this Committee. I did object in the letter to the fact that you are making public the fact that witnesses who did appear here took the fifth amendment, and I take that position for the reason to protect my client in a future prosecution.

Mr. BOB WILSON. Mr. Chairman, in order to refresh our memories of all this recent correspondence, I wonder if it would be appropriate to have the letter that was delivered this morning read at this time?

Mr. NEDZI. Mr. Shaffer read it in his opening statement.

Mr. BOB WILSON. I'd like to have it read now in context with the previous letter.

Mr. NEDZI. Without objection, counsel will read the letter.

Mr. HOGAN. The letter is addressed to the Honorable Lucien Nedzi, chairman, Special Subcommittee on Intelligence.

DEAR CONGRESSMAN NEDZI: In the strongest terms possible we wish to register an objection on behalf of our client, John W. Dean, III, who is scheduled to appear before your subcommittee in executive session on Thursday, July 19, 1973.

As lawyers for Mr. Dean charged with the guardianship of his legal welfare, and as officers of the court, we respectfully call your attention to the fact that the executive branch is conducting a grand jury inquiry and as late as May 22, 1973, in an unusual but nonetheless official communication, the U.S. attorney and his assistants then in charge of the inquiry, advised our client that they intended to seek his indictment and would not drop charges against him but would permit a guilty plea to a one count indictment charging a conspiracy to obstruct justice. The content of this letter, a copy of which we attach, insofar as it relates to the intention of Hon. Archibald Cox to prosecute our client, has been affirmed on a number of occasions since, particularly in appearances before Hon. John J. Sirica and Charles R. Richey, judges of the U.S. District Court for the District of Columbia.

In addition, while our client has given testimony to the Senate under the "use" immunity provisions of title 18, United States Code, section 6005, it is our legal opinion that Mr. Dean is not free to repeat the testimony he has given in another forum at will or under subpoena with the protected result which obtains under the section quoted. Moreover, should Mr. Dean be questioned before your subcommittee about other matters not covered in his testimony before the Senate, we believe that a waiver would occur as contemplated in *Ellis v. United States*, and then the citation, reading at page 801:

Once a witness has voluntarily spoken out we do not see how his protected interest is jeopardized by testifying in a subsequent proceeding.

Under the circumstances of our client facing a Federal prosecution as he does, we have no choice as his lawyers except to advise him to assert his constitutional rights under the fifth amendment to each and every substantive question which you or the members of your subcommittee may choose to ask him when he appears.

We also think you ought to give consideration about the useless generation of pre-trial publicity because of your enforcement of the subpoena at this time requiring our client to appear knowing he has no other legal choice except as we have outlined. We are sure that even though your proceedings are scheduled to be held in executive session there will be publicity about the fact that Mr. Dean has asserted his fifth amendment rights. We are confirmed in this view by the chairman's news conference yesterday resulting in a publication in the national media that the witness who appeared on Tuesday invoked his constitutional prerogatives.

Given these facts and circumstances, we respectfully request that Mr. Dean be excused from appearing and testifying before your subcommittee on Thursday, July 19, 1973. Respectfully, and it's signed by Mr. Charles Norman Shaffer.

Mr. NEDZI. Mr. Shaffer, are you contending that the rights of your client are being prejudiced by his pleading the fifth amendment before this subcommittee?

Mr. SHAFFER. Yes, I am. I am claiming that—

Mr. NEDZI. We're not compelling him to take the fifth amendment.

Mr. SHAFFER. I understand that, but you are bringing him up before you for testifying and, knowing that he has no legal choice really as a prospective targeted defendant, except to plead the fifth.

Mr. NEDZI. He has all the choice in the world.

Mr. SHAFFER. I'm not going to argue with you, sir. You asked my opinion, and I've given it to you. If you would like to hear my reasons, I'd be glad to outline them.

Mr. NEDZI. Go ahead, sir.

Mr. SHAFFER. We have one Government with two branches that are active. We have the executive branch, who has acknowledged before two U.S. district judges that they are going to prosecute my client. We have this same government, through its legislative branch, calling our client in for public meeting, by bringing him up here and asking him questions, when he has indicated in advance that he is going to exercise his constitutional privilege and, indeed, has no other legal choice but so to do. That's a legal choice.

Now, armed with that, he is nevertheless paraded here, and paraded in the press, as having exercised his constitutional privilege, well knowing that he's going to be prosecuted and may well have to take the stand at some time in the future, and the public is seeing the happenings, and it is the public from which the jury is going to be drawn, and it is his capacity as a witness to testify in the future which is being impaired.

All of this is spelled out in the *Delaney* case. This is not modern thought of counsel.

Mr. NEDZI. Mr. Shaffer, all I can say to that is that the parading which your client is going to receive as a result of the activities of this subcommittee are going to fade into nothing compared to the parading that he experienced at the hands of the Senate Watergate Committee.

Mr. SHAFFER. To which he didn't volunteer. This is just a continual parade by the Government, and it's a continual parade by the legislative branch of the Government, and every committee that sits in this Congress, I'm sure, is going to add to that process, and we complain to the whole thing, and we complain to each of the parts that contributes to the total.

Mr. NEDZI. The Chair is not going to argue with you on this point. The subcommittee feels that in the performance of its legislative duties it is essential that this record be complete, and be completed as rapidly as possible so that this national tragedy doesn't continue and cause more harm to the country than it has so far, and that's the reason that Mr. Dean is before us. That's the reason Mr. Krogh was before us and Mr. Young, and Mr. Liddy is coming tomorrow, so that our record can be complete.

Mr. SHAFFER. Mr. Chairman, I have no purpose other than to represent the interests of my client and register the objection.

Mr. HÉBERT. I would like to add to what the chairman said, because the chairman knows, and perhaps you don't know, Mr. Shaffer, that the Committee on Armed Services of the House of Representatives, I think, takes second place to none in the Congress, as to protecting witnesses in hearings. The record is replete on our protection of testimony, our protection of appearances. Our conduct, I think, is above reproach. That's our opinion. This is something we jealously guard. I'm sure you don't want to challenge the right of a committee to get testimony for legislative purposes.

We have nobody on trial. We are not prosecuting anybody.

Mr. SHAFFER. I appreciate that, Mr. Chairman.

Mr. HÉBERT. We're not prosecuting anybody. We have zealously brought out their constitutional prerogatives, when witnesses appear. The chairman of this committee has been instructed to give out to the press what he considers in his judgment it should know in order to satisfy them. But at no time has anything ever been given out, to my knowledge, by the chairman of the subcommittee which would be prejudicial to any witness who appeared here.

We are not judging anybody. We are not allowing anybody to see our records, because we are trying to develop a basis for legislative procedures, or remedial legislation, which we as a committee see fit.

You don't challenge that right, do you?

Mr. SHAFFER. Certainly not.

Mr. NEDZI. Do you have any statement, Mr. Bray?

Mr. BRAY. No questions. Let's proceed.

Mr. NEDZI. Mr. Price?

Mr. MELVIN PRICE. No.

Mr. SHAFFER. By not challenging the right, I don't want to give up the objection I made on the record.

Mr. NEDZI. Mr. Dean, do you have any statement you care to make at this point?

**TESTIMONY OF JOHN W. DEAN III, FORMER WHITE HOUSE
COUNSEL, ACCOMPANIED BY CHARLES SHAFFER, COUNSEL**

Mr. DEAN. No, I do not.

Mr. NEDZI. Mr. Dean, would you identify yourself, for the record?

Mr. DEAN. John W. Dean III. My address is 100 Quay Street, Alexandria, Va.

Mr. NEDZI. When and where were you born, Mr. Dean?

Mr. DEAN. I was born in Akron, Ohio, October 13, 1938.

Mr. NEDZI. And what is your current employment?

Mr. DEAN. I'm not currently employed.

Mr. NEDZI. Are you a lawyer?

Mr. DEAN. Yes, I am.

Mr. NEDZI. And in what jurisdictions are you a member of the bar?

Mr. DEAN. Virginia and the District of Columbia.

Mr. NEDZI. Could you inform us of your prior employment?

Mr. DEAN. On advice of counsel, Mr. Chairman, I am going to invoke my fifth amendment privilege against self-incrimination, or any waiver of that privilege by invoking it at this time.

Mr. NEDZI. Where did you go to school?

Mr. DEAN. I'm going to invoke the fifth amendment again.

Mr. NEDZI. Did you ever have occasion to deal directly or through another with the CIA prior to your contacts with General Walters?

Mr. DEAN. I'm going to invoke the fifth amendment.

Mr. NEDZI. What kind of routine liaison was kept between the White House and the CIA?

Mr. DEAN. Again I am going to invoke my fifth amendment privilege.

Mr. NEDZI. Did Mr. Mardian at any time suggest to you or anyone else to your knowledge at the White House that the CIA's help in the Watergate coverup should be solicited?

Mr. DEAN. Mr. Chairman, again I'm going to invoke my fifth amendment privilege, or any waiver of that privilege.

Mr. NEDZI. Mr. Dean, Mr. Ehrlichman has stated that on or about June 23d you told him of your conversation with Mr. Patrick Gray, wherein Gray surmised that the CIA may have been involved in the Watergate in some way.

Did Gray state any other basis for his surmising?

Mr. DEAN. Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. Did Gray at any time indicate his belief that a full FBI investigation of the Watergate might disclose some details of CIA activities in the Bay of Pigs?

Mr. DEAN. Mr. Chairman, I'm going to invoke my fifth amendment privilege, or any waiver of that privilege.

Mr. NEDZI. Do you know why the President did not simply direct Gray to contact Mr. Helms, or at least include Gray in the White House meeting that was held?

Mr. DEAN. Mr. Chairman, again I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Did you call General Walters on June 26, 1972, and ask him to meet with you?

Mr. DEAN. Mr. Chairman, again I must, on advice of counsel, invoke my fifth amendment privilege or any waiver of that privilege.

Mr. NEDZI. Why were you to meet with Walters rather than Helms?

Mr. DEAN. Again, Mr. Chairman, I must invoke my fifth amendment privilege.

Mr. NEDZI. Do you know General Walters?

Mr. DEAN. Again, Mr. Chairman, I am going to invoke my fifth amendment privilege.

Mr. NEDZI. Do you know Mr. Helms?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. Do you know Mr. Krogh?

Mr. DEAN. Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. Do you know Mr. Young?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. Do you know Mr. Schlesinger?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. Do you know Mr. Hunt?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. Do you know Mr. Liddy?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. What was the substance of your June 26 meeting with General Walters?

Mr. DEAN. Again, Mr. Chairman, on advice of counsel, I invoke my privilege against self-incrimination, or any waiver of that privilege.

Mr. NEDZI. Did you, at the Walters meeting of June 26, suggest to him that CIA go bail for the Watergate defendants?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke by privilege.

Mr. NEDZI. Did General Walters ever suggest to you that the Cubans might be held responsible for the Watergate break-in?

Mr. DEAN. Again, Mr. Chairman, on advice of counsel, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Did you suggest to General Walters that money could be paid from Agency covert funds for bail in support of defendants?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. Did you ask General Walters to meet with you on June 28?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke, on advice of counsel, my fifth amendment privilege.

Mr. NEDZI. Did you present the problem, as to how to stop the FBI investigation beyond the five initial steps?

Mr. DEAN. Again, Mr. Chairman, on advice of counsel, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Did you at this meeting mention Mr. Kenneth Dahlberg and Mr. Manuel Ogarrio?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Did you, or do you have any information suggesting that Dahlberg and/or Ogarrio were connected with the CIA?

Mr. DEAN. Again, Mr. Chairman, I'm going to, on advice of counsel, invoke my fifth amendment privilege.

Mr. NEDZI. Did you inform Walters that the FBI had three theories as to the organization of the Watergate bugging and break-in?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Did you call Gray on June 27 to discuss Dahlberg and Ogarrio?

Mr. DEAN. Again, Mr. Chairman, I'm going to, on advice of counsel, invoke my fifth amendment privilege.

Mr. NEDZI. Do you know Mr. Gray, former Acting Director of the FBI?

Mr. DEAN. Mr. Chairman, I'm going to invoke my fifth amendment privilege, or any waiver of that privilege.

Mr. NEDZI. Did you talk to Gray on the telephone regarding Miss Kathleen Chenow, secretary to David Young?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Did you on the morning of June 29, 1972, call Gray and order him not to interview Dahlberg and Ogarrio?

Mr. DEAN. Mr. Chairman, I'm going to invoke my fifth amendment privilege again.

Mr. NEDZI. Did you on June 30, 1972, call Gray from California about leaks relative to the effects taken from Hunt's safe?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Did you on July 3, 1972, again call Gray?

Mr. DEAN. Mr. Chairman, again I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Did you on July 5, 1972, call Gray relative to toll call cards reflecting calls made by Hunt while working at the White House?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Did you on February 9 of this year call Dr. Schlesinger at the CIA and request that the agency retrieve the package they had sent to Justice pursuant to Mr. Ed Petersen's request?

Mr. DEAN. Mr. Chairman, again I'm going to invoke my fifth amendment privilege, on advice of counsel.

Mr. NEDZI. To your knowledge, did the FBI ever report in its opinion the CIA was not involved in any way in Watergate?

Mr. DEAN. Mr. Chairman, again, on advice of counsel, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Do you know whether the FBI investigation into the Mexican aspects of Watergate, or any other aspects * * *

Mr. DEAN. Mr. Chairman, again, on advice of counsel, I'm going to invoke my fifth amendment privilege.

Mr. SHAFFER. May I make an objection at this point on the record, with the permission of the Chair?

Mr. NEDZI. Certainly.

Mr. SHAFFER. I think it's become obvious to the committee that on any question of a substantive nature our client will take the fifth amendment. Continued questioning does not serve a legislative function, nor do I think, in response to Mr. Hébert's earlier remarks, if the purpose of this committee is to investigate to obtain testimony in order to legislate; there is a way open to the committee to do it under title 18, section 6005. But to simply continue interrogation of a witness who has shown on its face a legal claim to the exercise of the privilege by virtue of the things in the exhibits that were submitted to the committee this morning, and to continue the questioning, I think that that purpose is doubtfully served, and I would like to note the objection.

Mr. NEDZI. The objection is noted, Mr. Shaffer.

Mr. BRAY. Mr. Chairman?

Mr. NEDZI. Mr. Bray.

Mr. BRAY. It may seem that this is repetitious. Frankly, these questions are not repetitious. This committee was going into this matter of security before the Watergate ever happened. This is not merely a publicity scape, and every matter, every question that has been asked, does have a bearing.

I don't want this to be unduly continued, but, for the record, I believe an attempt is being made every time to follow that out, to show that we did make every attempt to get that information. But these questions, every one of them that we've had in testimony that we've had, is pertinent to an objective of the committee.

Mr. SHAFFER. I certainly accept your position, sir.

Mr. NEDZI. Mr. Dean, did you keep Ehrlichman and/or Haldeman fully and immediately informed of your discussions with Walters and Gray?

Mr. DEAN. Mr. Chairman, again, on advice of counsel, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Do you know Mr. Ehrlichman?

Mr. DEAN. Mr. Chairman, again I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Do you know Mr. Haldeman?

Mr. DEAN. Again, I'm going to invoke my fifth amendment privilege, or any waiver of that privilege.

Mr. NEDZI. During this period did you have discussions on the Watergate or any other matter with any other CIA personnel?

Mr. DEAN. Mr. Chairman, again I'm going to invoke my fifth amendment privilege, or any waiver of that privilege.

Mr. NEDZI. Did you ever have occasion to deal officially with Mr. Howard Hunt?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. While he was employed at the White House, Hunt also worked for Robert R. Mullen, public relations firm.

Were you aware of Hunt's dual employment?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. When did you first learn of the plumbers unit?

Mr. DEAN. Again, Mr. Chairman, based on advice of counsel, I'm going to invoke my fifth amendment privilege and refuse to answer the question.

Mr. NEDZI. Did you understand that the plumbers would be calling upon the CIA to provide assistance from time to time?

Mr. DEAN. Mr. Chairman, again I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. What was your understanding of Hunt's and Liddy's roles in the plumbers?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Two days after the Watergate arrests, Mr. Dean, did you suggest to Mr. Colson that Hunt leave the country?

Mr. DEAN. Again, Mr. Chairman, based on advice of counsel, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. You have stated that Colson was very anxious that certain materials be removed from Hunt's safe before the FBI, and so forth, got to it.

Did Colson tell you what this material was?

Mr. DEAN. Again, Mr. Chairman, based on the advice of counsel, I am going to not answer that question and invoke the privilege.

Mr. NEDZI. Mr. Hunt has testified that the Secret Service had the combination to his safe.

Were you aware of this?

Mr. DEAN. Again, Mr. Chairman, based on the advice of counsel, I am going to invoke my privilege and not answer the question.

Mr. NEDZI. Did you on June 28, 1972, together with Mr. Ehrlichman, give Mr. Gray documents on the fall of President Diem and on the implication of President Kennedy?

Mr. DEAN. Mr. Chairman, again I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Do you have any knowledge of Hunt's contacts with the CIA in which he was given certain documents and equipment?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Do you have any knowledge of Hunt's involvement in the Agency's development of the Ellsberg profile for the White House?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Do you have any knowledge that the equipment provided Hunt by the CIA would be used in the break-in at the office of Dr. Fielding?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. NEDZI. Do you have any knowledge of the break-in at the office of Dr. Fielding?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. Were you aware that Mr. McCord was receiving \$3,000 a month from Mr. Parkinson?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. Did Mr. Hunt ever demand any money from you or others in the White House, to your knowledge?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. Were there any conditions attached to the payment of money, support money, to the defendants?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. Did Mr. O'Brien ever tell you that Hunt was off the reservation, that he wanted assurance of clemency, and that he would believe only Colson?

Mr. DEAN. Again, Mr. Chairman, based on advice of counsel, I'm going to invoke my fifth amendment privilege and refuse to answer.

Mr. NEDZI. Did Mr. Caulfield tell you that Mr. McCord was being stubborn relative to clemency?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. Do you have any knowledge of any assurances given to McCord that should he embrace the CIA defense, his personal records at the Agency could be altered to reflect his continued employment there?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. Do you know Mr. Alch?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. Do you know Mr. Fensterwald?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. Do you know Mr. Walt Russell?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. Do you know Officer Gary Bittenbender?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. Were you involved in the preparation of the so-called Huston memorandum?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. Were you involved with the Intelligence Evaluation Committee group in December 1970?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege.

Mr. NEDZI. Why was the Huston group set up?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke my privilege on advice of counsel and refuse to answer the question.

Mr. NEDZI. Do you know anything about the CIA's role in the Huston committee?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. What was your security clearance when you were at the White House?

Mr. DEAN. Again, Mr. Chairman, I'm going to invoke the privilege.

Mr. NEDZI. Mr. Chairman, do you have any questions?

Mr. HÉBERT. Yes, I have just one question of Mr. Dean.

Mr. Dean, in retrospect, with what has occurred since this situation has become public knowledge, in view of your public appearance before the Senate Investigating Committee, the special committee, and also your various appearances before grand juries, and your appearance here this morning, in retrospect, I ask you: Are you innocent of any wrongdoing or illegal act?

Mr. SHAFFER. I object to the question, specifically because it asks for a confession.

Mr. HÉBERT. I repeat the question.

Mr. DEAN. I take the fifth. Again, Mr. Chairman, I'm going to invoke my fifth amendment privilege.

Mr. SHAFFER. Do you invoke the fifth amendment privilege on the question whether you're innocent?

Mr. DEAN. That is correct.

Mr. NEDZI. Mr. Bray?

Mr. BRAY. No questions.

Mr. NEDZI. Mr. Price?

Mr. MELVIN PRICE. No questions.

Mr. HOGAN. I have no questions, Mr. Chairman. Thank you.

Mr. NEDZI. What are your future plans, Mr. Dean?

Mr. SHAFFER. I object to that question on the grounds of relevance, and I direct him not to answer it, and I direct him not to take the privilege.

Mr. NEDZI. If there are no further questions, the committee will stand in recess until 10 o'clock tomorrow morning.

Thank you.

(Whereupon, the subcommittee recessed at 11:20 a.m., to reconvene at 10 a.m., on Friday, July 20, 1973.)

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Thursday, July 20, 1973.

**APPEARANCE OF GEORGE GORDON LIDDY, FORMERLY ASSOCIATED
WITH THE WHITE HOUSE AND THE COMMITTEE FOR THE RE-
ELECTION OF THE PRESIDENT, ACCOMPANIED BY PETER L.
MAROULIS, COUNSEL**

[Transcript covering Mr. Liddy's appearance is printed in Report of Proceedings against George Gordon Liddy, House of Representatives Report 93-453 at Appendix I, p. 906. Other material covering Mr. Liddy's appearance is printed in this section in the Full Committee Consideration of Report of Intelligence Subcommittee (H.A.S.C. No. 93-19), p. 884-902, Proceedings Against George Gordon Liddy as printed in the Congressional Record (p. H7679), September 10, 1973 (see p. 933), the grand jury indictment, and the judgment in the U.S. District Court for the District of Columbia, May 10, 1974 (see p. 940).]

[H.A.S.C. No. 93-19]

**FULL COMMITTEE CONSIDERATION OF REPORT OF INTELLIGENCE
SUBCOMMITTEE REGARDING G. GORDON LIDDY**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., Thursday, July 1973.

The committee met, pursuant to notice, at 10:24 a.m., in room 2118, Rayburn House Office Building, Hon. F. Edward Hébert (chairman) presiding.

The CHAIRMAN. The committee will be in order.

Members of the committee, we are meeting this morning to have a report from Mr. Nedzi, who is chairman of the Committee on CIA, Central Intelligence Agency, and has been conducting a hearing into the matter of CIA involvement, if any, in the Watergate situation, or any other matters relative to the CIA activities.

The basic purpose and objective is proposing remedial legislation, if necessary—whatever rule the committee cares to make—as a result of the testimony given last week.

Mr. Nedzi is here today to present a proposal for a contempt citation against Mr. G. Gordon Liddy, a witness who refused to take the oath before the committee.

Mr. Nedzi.

Mr. NEDZI. Thank you, Mr. Chairman.

Mr. Chairman, on Friday, July 20, 1973, during an executive session of the Special Subcommittee on Intelligence of which I am chairman. Mr. George Gordon Liddy, who was duly called as a witness pursuant to a writ of habeas corpus, refused to be sworn prior to offering any testimony or claiming his privileges under the fifth amendment. A quorum being present, the subcommittee voted to report the matter to the full committee with a recommendation for reference to the House of Representatives under procedures which could ultimately result in Mr. Liddy being cited for contempt of Congress.

Since Mr. Liddy was in confinement in the District of Columbia jail, as the result of his conviction on the Watergate break-in, the subcommittee petitioned Chief Judge John J. Sirica for a writ of habeas corpus ad testificandum as the only means of obtaining Mr. Liddy's presence before the subcommittee. In his discretion Judge Sirica signed that petition on July 16, 1973, and an order was delivered to the U.S. marshal for Liddy's presence before the subcommittee on July 20, 1973.

As you know, Mr. Chairman, the Special Subcommittee on Intelligence is a duly constituted subcommittee of the House Armed Services Committee pursuant to House Resolution 185, 93d Congress, and the appointment made during the organization meeting of the Committee on Armed Services on February 27, 1973. In addition, you will recall the order given to me as chairman of that subcommittee direct-

ing that we conduct an inquiry regarding CIA involvement in Watergate-Ellsberg matters.

The subcommittee commenced its hearings on May 11, 1973, and in 16 sessions since that date has had before it some 24 witnesses bearing on the subject of our inquiry. Although three witnesses before the subcommittee claimed their fifth amendment privilege throughout their appearance, Mr. Liddy was the sole witness who refused to be sworn.

In his appearance before the subcommittee on July 20, Mr. Liddy and counsel, through an extensive brief and exchange with the members of the subcommittee, claimed in essence that the fifth amendment incorporates the right of a witness before a congressional subcommittee not to take the stand and therefore not to be sworn. In sum, Mr. Liddy claimed he had the absolute right under the fifth amendment to remain completely silent with regard to any offering before the subcommittee. He further argued a sixth amendment right to avoid what he claims would be prejudicial publicity in the media should he claim his fifth amendment rights.

Before each member of the committee is a copy of the transcript of the subcommittee proceedings on July 20, 1973. On page 1 of those proceedings Mr. Liddy was asked to rise and take the oath. He refused to take that oath as a witness. Subsequently, his counsel, Mr. Peter L. Maroulis, presented his very novel and extensive brief before the subcommittee after which Mr. Liddy again refused to take the oath as indicated at page 13 of the transcript.

Mr. Chairman, the position of the subcommittee is that all substantive and procedural legal prerequisites have been satisfied for the hearing of Mr. Liddy as a witness and that the full committee should report a resolution which, upon adoption by the House, would refer the matter to the U.S. attorney. Title 2, United States Code, sections 192 and 194 provide the necessary vehicles for taking this action. Section 192 provides the basis for indictment should a witness before either House of Congress refuse to answer any question pertinent to the inquiry. Section 194 provides the vehicle for certifying such a result to the appropriate U.S. attorney.

The central question is whether failure to take the oath constitutes a refusal to give testimony. We believe it does. Of course, the ultimate answer rests with the courts. While there may be merit to Mr. Liddy's argument as it pertains to testimony of a defendant in a court of law, we do not believe that it applies to a duly constituted congressional hearing without procedural deficiencies.

We have examined some of the basic case law on the subject and are of the opinion that we are in compliance with the basic substantive and procedural requirements in the onward reporting of the case. Accordingly, it is the position of the subcommittee that the proceedings to date are in order and we recommend that this committee approve going forward with a resolution that the Committee on Armed Services report to the House the fact of the refusal of George Gordon Liddy to be sworn to testify at a meeting of the Special Subcommittee on Intelligence on July 20, 1973, together with all the facts in connection therewith to the end that he may be proceeded against as provided by law.

In that regard you have before you a draft resolution which we could use in proceedings before the House, and I move its adoption by the committee.

The CHAIRMAN. Mr. Nedzi, would you read the resolution into the record now?

Mr. NEDZI. Resolution:

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Armed Services of the House of Representatives as to the refusal of George Gordon Liddy to be sworn or to take affirmation to testify before a duly authorized subcommittee of the said Committee on Armed Services on July 20, 1973, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States attorney for the District of Columbia, to the end that the said George Gordon Liddy may be proceeded against in the manner and form provided by law.

[The Special Intelligence Committee hearings on July 20, 1973, are as follows:]

The CHAIRMAN. Now, members of the committee, I wish to reaffirm what has been mentioned by Mr. Nedzi in his statement. At the time I initiated the current hearings of the Special Subcommittee on Intelligence, which commenced on May 11, 1973, I directed the subcommittee chairman to look into all aspects of the allegations that were arising in reference to any possible CIA connection with the Watergate break-in or the Ellsberg matter, and to call before the subcommittee any and all persons who could shed any light on the subject.

No detail was to be too small or insignificant. In view of the committee's oversight function with regard to intelligence and other national security matters, we were concerned not only with the need to know the facts, but also whether any legislation might be necessary in the national interest.

I repeat this in formal form in what I said in my opening statement informally in order that the record may be absolutely clear on the position that the subcommittee finds itself in coming before the full committee this morning to ask a contempt citation be adopted by the full committee, which is the procedure of the House.

I also reaffirm, and again call to the attention of the full committee, that the subcommittee voted unanimously to take this action and instructed Mr. Nedzi to bring this resolution of contempt before the full committee for adoption before sending to the House.

Does any member have a question?

Mr. Ichord.

Mr. ICHORD. Mr. Chairman, I take this time, because I think by reason of my position as chairman of the House Committee on Internal Security I have had more experience in this field than any present Member of Congress, and I have a few questions I wanted to ask of Mr. Nedzi after briefly explaining the status of the law on this matter of contempt of Congress.

The Congress does have the power of contempt, which is a necessary power in order to carry out its fact-finding responsibilities. The procedure is this: We have, by statute, delegated the power to enforce our contempt powers to the courts. The procedure is that once the subpoena is validly issued and is a matter within the jurisdiction of Congress, and the contempt is voted by the committee and then it is later voted by the House, the district attorney is directed to go before a grand jury, where all of the judicial protections are made available to the defendant.

He has to be indicted by a grand jury. If the jury returns an indictment, then he is entitled to a trial, that is, basically a criminal proceeding.

Now, there are three committees of the House that have permanent subpoena powers. They are the House Committee on Government Operations, the House Committee on Appropriations, and the House Committee on Internal Security. This committee will get its subpoena power from the House of Representatives through the adoption of the resolution each year.

So, if that resolution validly delegates subpoena power to this committee, and it is validly delegated to the subcommittee, I don't think there is any question about it. This is a clear and open case of contempt of Congress.

However, if I had been the attorney for Mr. Liddy, I wouldn't advise my client to proceed in this way. I would advise him to appear and take the fifth amendment, and, in fact, if I were Mr. Liddy at the present time I wouldn't worry about the action of this committee and this Congress because the law is in considerable disarray.

In fact, in recent years there has been a new body of law created in this whole field of contempt. The Supreme Court in a series of cases has held that a defendant in this case can do the unusual thing of filing a civil proceeding to enjoin the contempt proceedings, and in fact, there is one contempt case that has been in the courts 7 years at the present time, and it is still not resolved. The defendant filed a civil proceeding to enjoin the criminal proceedings, and it has been 7 years since that case has been in the courts.

Certainly in this case the attorney for Mr. Liddy can avail himself of the law in order to stymie these contempt proceedings.

There is another field of law that is developed. This is the same case that we recently had before the House Committee on Internal Security in connection with the case of Arnold Johnson, who is director of the Communist Party USA. He too was validly subpoenaed before the committee. He refused to be sworn and appear before the committee, as Mr. Liddy did in this case.

He was indicted, and later the case was dismissed at the request of the FBI because the FBI had performed several illegal wire taps, in effect, on Mr. Johnson. I haven't condemned the wire taps on Mr. Johnson. In fact, there should have been wire taps on Mr. Johnson, but they should have been legal wire taps, rather than illegal wire taps.

Now, in the Watergate case, there have been wire taps all over the lot, and I would like to ask Mr. Nedzi if there have been, to his knowledge, any illegal wire taps performed and carried out against Mr. Liddy?

The CHAIRMAN. Mr. Nedzi.

Mr. NEDZI. The question is whether to my knowledge there have been any illegal wire taps carried out against Mr. Liddy? The answer is a categorical "No."

Mr. ICHORD. Is there any doubt about the validity of the issuance of the subpoena? Is there any doubt about the House delegating this power to the full committee and the full committee delegating the power to the subcommittee, and the chairman of the subcommittee validly issuing the subpoena?

Mr. NEDZI. I might state to the gentleman that H.R. 185, 93d Congress, includes in it the following language:

"Subpenas may be issued over the signature of the chairman of the committee, or any member designated by him."

And on May 21, 1973, the chairman of the full committee, Mr. Hébert, sent to me, as chairman of the subcommittee, a letter in which he stated the following:

"For the purpose of fully discharging its responsibilities, the Subcommittee on Intelligence is vested with the authority granted and conferred in House Resolution 185, 93d Congress. The subcommittee may, therefore, require by subpoena or otherwise, the attendance and testimony of witnesses," et cetera, which it seems to me provides a valid basis, a valid legal basis for the issuance of the subpoena.

Subsequently, as I indicated in my statement, a writ of habeas corpus was duly secured from Chief Judge John Sirica, which was then duly served, and pursuant to it Mr. Liddy came before the subcommittee.

Mr. ICHORD. May I state, Mr. Chairman, I am going to support the contempt resolution. I think it is a very clear and open case of contempt, but I would state that I don't think Mr. Liddy has any real fear of these proceedings, because the law is in considerable disarray, and perhaps after this case goes through, if he has good legal representation, it will direct the attention of the Congress toward straightening out the law relating to contempt.

I would state that the House of Representatives also has the power to enforce its own contempt powers, that is, the House could summon Mr. Liddy before the bar of the House and enforce its contempt powers. I would not recommend that, however, because I think it would be too time consuming for the House of Representatives.

I think it is better to have the court enforce our contempt powers, but throughout the years the judiciary has been exceedingly reluctant to enforce the contempt powers of Congress.

The CHAIRMAN. I will say this to the gentleman from Missouri, I recognize his expertise on the subject of the fifth amendment, and I am not a lawyer so I cannot discuss the legal aspects of it. But I too have had a little experience in the field of the fifth amendment on the predecessor to the gentleman's committee back in the days of the Un-American Activities Committee, and as I mentioned, I wasn't a lawyer, and that is the reason I was surreptitiously removed from the committee by those interested, because I wasn't a lawyer, and I was the only member not reappointed to the committee because I wasn't a lawyer. So I can't argue that.

But one case that I have knowledge of is the *Gerhardt Eisler* case before the committee. Eisler, as I recall—and counsel can correct me—was found guilty in a similar situation as this, and it is so recorded. The changes in the law, and the changes in the judicial procedure or later decisions I am not familiar with. But I do want to call your attention to the one case, the *Gerhardt Eisler* case—and I was a member of the committee at that time.

There is a quorum call. They will wait 15 minutes before vote.

Mr. Treen.

Mr. TREEN. Yes. I have a couple of questions for Mr. Nedzi, if I may.

The CHAIRMAN. Suppose we suspend for 15 minutes, and we will return to Mr. Treen's discussion.

Mr. TREEN. Thank you.

[A recess was taken.]

The CHAIRMAN. The committee will be in order.

Mr. YOUNG. Mr. Chairman.

The CHAIRMAN. Mr. Treen had the floor.

Mr. TREEN. Thank you, Mr. Chairman.

If I could direct a couple of questions to Mr. Nedzi. As I understand the situation, and I have not had an opportunity to read the transcript of the occurrences before the committee, is it correct Mr. Liddy is not challenging the validity of the subpoena? There has been some discussion about the power of this committee to subpoena and so forth. Do I understand from that discussion that there has been a challenge to the right of this committee to subpoena, or is it just a challenge to the right of the committee to require him to be sworn and give testimony?

Mr. NEDZI. My understanding, Mr. Treen, is that it is only a challenge to the right of the subcommittee to require Mr. Liddy to take an oath. Mr. Maroulis in his argument drew an analogy between the situation of an individual going into a courtroom as a defendant, and pursuant to the fifth amendment, not being required to even take the stand, with that of an individual who appears as a witness before a subcommittee.

Mr. TREEN. He did appear and identified himself before the committee, Mr. Liddy did? He appeared in response to the subpoena, he appeared, identified himself, had counsel make an appearance for him, is that correct?

Mr. NEDZI. No. There was no identification, because the first order of business before a subcommittee hearing is for the individual to take the oath, and when he stood up to take the oath and the oath was administered, he did not respond in the customary manner, but indicated that he was not going to take the oath, and that his counsel had a statement, as the record indicates.

The CHAIRMAN. May I interrupt there?

Mr. NEDZI. Certainly.

The CHAIRMAN. For the physical appearance and what happened, Mr. Nedzi will bear out, Mr. Liddy stood, raised his hand in the usual manner. Mr. Nedzi repeated the words of the oath, and when it came to that point for Mr. Liddy to say "I do," he refused to answer. I think that is the physical situation at that time.

Mr. TREEN. Yes, I see that now.

Mr. NEDZI. You will note on page 1 the matters to which I am referring.

Mr. TREEN. It would be fair to say he responded to the subpoena, was there, and identified himself without making a challenge?

Mr. NEDZI. Yes, I think it was clear it was George Gordon Liddy before the subcommittee.

Mr. TREEN. The second question, with respect to the procedures discussed by Congressman Ichord, is it your intention to call him before Congress, or to ask for, ultimately, the court to take action?

Mr. NEDZI. To be candid, we had not even given consideration to the idea of bringing him before the Congress. I am inclined to agree with Mr. Ichord that that is an unduly burdensome procedure for what we have to gain. I think at this point it is a question of asserting con-

gressional prerogatives, and assuring that this kind of event does not reoccur.

Mr. TREEN. I want to make it clear, Mr. Chairman, members of the committee, that I am strongly in favor of protecting the prerogatives of this committee and of this Congress. On the other hand, this brief, in effect, that was presented by Mr. Liddy's attorney, and which I have seen for the first time this morning, appears to be rather extensive. It may very well be novel. It contains legal points that Mr. Liddy's counsel apparently is making.

We have a question here, it seems to me, of whether in effect Mr. Liddy is taking the fifth amendment. The question of the difference between him being sworn and then immediately taking the fifth amendment, is there a really and substantive difference? I am not prepared to say.

I ask Mr. Nedzi and the chairman of this committee if any hardship would be worked on the committee or the Congress to permit us to have a few days to study the brief of Mr. Liddy's counsel, and then to meet again on this citation? In other words, would it be a hardship, and second, would it be in order to entertain a motion to postpone action until next week?

The CHAIRMAN. The Chair will have to answer that question. The Chair will first of all say it will not be a hardship, but it would not be desirable, merely postponing this. We are fast approaching a recess day in August. There will be no change, I am sure, in the vote of the committee.

While I appreciate the gentleman's desire to read this very erudite and profound statement which the lawyer read, we are not sitting as a court. We are sitting as a congressional committee. We are entirely different from a court. The argument presented was strictly a legal argument for a court, with no reference in it to the subcommittee. It was strictly on this rather unique approach of the witness not being compelled in a courtroom to take the chair, which is something else.

But I don't see where any useful purpose could be served. The gentleman could read this and I am sure every member of the committee wants to read it because it is a novel and unique argument. The lawyer went back to Henry the Eighth, and Elizabeth, and almost to Adam and Eve, to show the fifth amendment.

The basic thing is the fact. The law is the law, and we know what the law is as far as the committee is concerned, and now I overrule any suggestion of postponement. If the gentleman wants to make the motion, I would entertain it.

Mr. TREEN. When it is in order, I would like to suggest a postponement. I am only talking about next week not to go beyond the recess.

The CHAIRMAN. I recognize the fact, but we are all pressed for time, and here we have had to break up twice this morning for quorum calls. The future legislative calendar is unpredictable.

The procurement bill comes before the House on Monday. I don't know how long that will run. There are a multitudinous amount of amendments going to be offered. I am sure we will all know the outcome of those amendments, they will all be defeated, but we have to listen to them, and we have to give everybody the right and courtesy to be heard. Nothing can be accomplished by delay, so I would prefer that we proceed now.

Mr. Young.

Have you finished, Mr. Treen?

Mr. YOUNG. Have you finished, Mr. Treen?

Mr. TREEN. I am ready to yield, but I do want to make the motion at the proper time.

The CHAIRMAN. Make the motion right now, if you want to.

Mr. TREEN. Yes, sir; I would like to move we postpone action on the resolution until a date next week to be fixed by the chairman.

The CHAIRMAN. You heard the motion by Mr. Treen to postpone the action to a date next week to be fixed by the chairman of the full committee.

All in favor say "aye."

Mr. ARMSTRONG. Mr. Chairman, I would like to address the motion of postponement.

The CHAIRMAN. You may address it.

Mr. ARMSTRONG. Mr. Chairman, I do want to speak to the motion and also would like to inquire of the counsel whether a memorandum of law has been prepared on this subject for the benefit of the members of the committee. This is an entirely new subject to me, and perhaps to others. I ask if a memorandum guide has been prepared?

Mr. NEDZI. Mr. Chairman.

The CHAIRMAN. Mr. Nedzi.

Mr. NEDZI. If I may respond to that. In substance, the memorandum of law is before you in my statement. This is the situation as we understand it. We have reviewed some of the case law. We don't have an elaborate brief that is comparable to the one presented by Mr. Maroulis, simply because we felt it wasn't called for under the circumstances.

In our judgment, the law is clear on the issue. The Eisler case to which the chairman alluded earlier actually had a much weaker set of facts than the facts in this particular case. So that the case law and the statute law has been reviewed on the matter, but frankly I don't think it occurred to anyone that the membership would be that interested, based upon their knowledge of the law and precedents.

Mr. ARMSTRONG. Mr. Chairman, could I ask one additional question? Was this transcript made available to the Members of the committee today?

It did not come to my attention, and really the nature of my inquiry is whether or not it was sent to my office and just didn't get through the mill, or is this the first time this has been made available to the members of the committee?

Mr. NEDZI. I am unaware, but I am advised by counsel this is the first time it was made available to the members of the committee. I guess it first was printed yesterday.

Mr. HOGAN. The day before.

Mr. ARMSTRONG. Mr. Chairman, then let me associate myself with Mr. Treen's remarks. I think he is entirely right. Particularly I endorse his concern for maintaining and strengthening the prerogatives of this committee, but I am not going to be ready to vote on this question until I have had a chance to read this. Although it is not my purpose at all to try and perform any judicial functions here, or practice any law. I think I would like to have a more extensive rebuttal of

the legal points which have been raised in this presentation by Mr. Liddys attorney, and because of the nature of the case. I think it is important enough to justify that kind of response by our staff, and so I shall vote for Mr. Treen's motion.

The CHAIRMAN. Mr. Young, did you want to address yourself to the motion?

Mr. YOUNG. Mr. Chairman, I do not have a statement to make on the motion.

The CHAIRMAN. I will recognize you later.

Mr. Stratton.

Mr. STRATTON. I wanted to speak against the motion of Mr. Treen. I think I might have something that may be helpful. I don't know whether I could be called a lawyer, I went to Harvard Law School for 4 weeks.

The CHAIRMAN. You can't be called a lawyer. [Laughter.]

Mr. STRATTON. Four weeks at Harvard ought to be worth more anywhere else.

The CHAIRMAN. That is minus.

Mr. STRATTON. I had an opportunity to read this brief on the way over to the quorum call. I don't think there is any question about the fact that Mr. Nedzi's interpretation is a perfectly sound interpretation of the brief. The brief, which does go back to the Magna Carta and everything else, simply makes the point that a defendant has the right, presumably under the fifth amendment, not even to testify in a criminal court proceeding, and the question is whether that applies to the testimony before a committee of Congress.

I think the only way that we can get this issue decided is not by the opinions of the various lawyers on this committee, but by taking the issue as it is presented to us and going to court, as Mr. Nedzi has proposed. If we want to protect the prerogatives of the House, that in the long run is the only way we can do it.

So I don't think anything really can be served by postponing it. It is an interesting brief from a historical point of view, but I think Mr. Nedzi has completely summarized what it boils down to.

Mr. TREEN. Will the gentleman yield at this point?

I went to Tulane Law School, the same university attended by our distinguished chairman, and that doesn't make me a good lawyer either.

[Laughter.]

Mr. TREEN. I don't know of any lawyer who really can look at a brief—now Mr. Stratton perhaps you can—cut citing as much historical law as set forth, as I see in this brief, not having the opportunity to study it in a detached manner, I can't evaluate it. And while I agree with the chairman that we are not a judicial body, I do think it is incumbent upon us to at least make a preliminary decision. Otherwise we could simply take a position with regard to any action we take in Congress, let's do it and not worry about it, and let those that want to challenge it go to court. I think we have the responsibility not to require that challenge in court, if it is not indicated.

And, again, I want to emphasize, Mr. Chairman—I know I have taken a lot of the committee's time—I am not opposed to the protecting of the prerogatives of this committee normally trying to protect Mr. Liddy in any way. I am not saying we should not take this action

I am inclined to think I probably will vote for it. All I am saying is that a matter of this import, it seems to me, could be delayed for a few days until we have the opportunity to study this memorandum.

Mr. O'BRIEN. Mr. Chairman.

The CHAIRMAN. Mr. O'Brien.

Mr. O'BRIEN. With reference to the motion, I speak against the motion, as does Mr. Stratton.

When I learned about it. I checked on the *Eisler* case, and maybe Mr. Nedzi can enlighten me, but as I read the transcript quickly on the front page, Mr. Liddy answered "I respectfully decline to take the oath as a witness."

And what Mr. Eisler was caught up on was his statement that he wished to speak before he was sworn.

And that is what was the heart of the matter. It satisfied me that is good law, and I think the subpoena is in order and I oppose the motion.

The CHAIRMAN. Mr. Bray.

Mr. BRAY. This matter, or the issue here, is whether the man should take the oath or not, whether he should be required to take the oath.

I read the brief, it is rather interesting. It goes back several centuries before the Magna Carta. I didn't find too much of it in point here at all.

It has been assumed, and by many decisions, and generally accepted as the law, that Congress could call—if proper steps were taken before a committee—you could call and swear witnesses.

I don't believe it would help us any—how deep we went into this matter here. Because either Congress has that right or they do not have that right. The only decision we can make is to say we don't want to go ahead with it, but the matter of the law will have to be decided by the courts. I would say it would take days of research far beyond this brief here. It is a brief that is interesting historically, but, frankly, with very little of interest legally, in my opinion.

My theory is that if the committee says we are not interested in going ahead with that, fine. As far as the legal question, we cannot test that here in any way, because I don't know, I suppose hundreds of times witnesses have been brought before congressional committees over a period of many, many years and have testified. Whether we are interested enough in this to go ahead with it or not, the legal matter, I think, has got to be decided far beyond this committee and Congress itself as far as that is concerned.

The CHAIRMAN. The Chair makes this suggestion at this time: I conferred with the chairman of the subcommittee, and, as the members of this committee know, the Chair always wants to cooperate with the subcommittee chairman, and Mr. Nedzi has suggested that we recess until 2 o'clock this afternoon. Is that satisfactory to Mr. Treen, and everybody here, we come back and be able to vote at 2 o'clock? I personally don't think it will serve anything, but I don't want to be precipitous in the matter, and I want everybody to have their say. You start researching, you get the lawyers around, and we are going beyond the Magna Carta.

Mr. Young.

Mr. YOUNG. Mr. Chairman, I have no objection to a recess until 2 o'clock, but there are some questions that I want to ask before that recess so I can think about them between now and 2 o'clock.

The CHAIRMAN. That is perfectly all right with me. If Mr. Treen asks unanimous consent to suspend his motion, you are recognized to renew the motion before we recess.

So we will continue with questions.

Mr. TREEN. I am agreeable, Mr. Chairman, to either procedure. It may be members of the committee aren't agreeable even to postponing to 2 o'clock. But I would be willing to change my motion to read "until next week or 2 o'clock, at the discretion of the Chair." I think that would do it.

The CHAIRMAN. No; what I am asking now, Mr. Treen, is. Mr. Young wants to pursue the discussion. We cannot pursue the discussion except to the motion which is before the committee.

If you ask unanimous consent to suspend consideration of your motion or reserve the right of presenting your motion at the proper time, it will clear the parliamentary deck.

Mr. TREEN. I misunderstood the Chair. I am willing to suspend the period of the motion.

The CHAIRMAN. Mr. Randall.

Mr. RANDALL. I would like to know the parliamentary situation.

The previous motion, is the previous question ordered?

The CHAIRMAN. No; the previous question was not ordered. Mr. Randall. Mr. Treen made the original motion, and a discussion of the motion was proceeding when the suggestion was made by Mr. Nedzi, the chairman of the subcommittee, that the committee recess until 2 o'clock, and then vote on Mr. Treen's motion at that time. In the meantime, Mr. Young has indicated that he would like to pursue questioning related to the resolution before the committee, and the utilization of the time could be found now until the time of recess or between now and 2 o'clock, at which time Mr. Treen will have the privilege of renewing his motion.

At that point in time—if that is an unfamiliar phrase to you—I hope we will accomplish something.

Mr. Hogan.

Mr. HOGAN. Mr. Chairman, I could probably be helpful to Mr. Treen and others in the review of the brief. If you will look at the transcript, everything up until page 5 is a purely historical development of the fifth amendment, purely and simply.

At the bottom of page 5 you will see "As a result, the Fifth Amendment of the United States Constitution"—and so forth.

I think if you want to save time if you read pages 5 and 6, and over to the resolution on page 7, there is the sum and substance of Mr. Maroulis' argument which goes only to a trial in a court of law.

Thank you, Mr. Chairman.

The CHAIRMAN. Mr. Young.

Mr. YOUNG. Mr. Chairman, thank you very much.

Mr. BOB WILSON. I am speaking to the question of Mr. Treen's motion, Mr. Chairman.

The CHAIRMAN. That is under suspension now until we come back.

Mr. BOB WILSON. Under unanimous without objection?

The CHAIRMAN. Without objection.

Mr. BOB WILSON. I object, Mr. Chairman.

[Laughter.]

The CHAIRMAN. All right.

Mr. BOB WILSON. Mr. Chairman, I never even drove by Harvard Law School—

Mr. YOUNG. Mr. Chairman—

Mr. BOB WILSON. Seriously, Mr. Chairman, I believe that Mr. Treen has raised a valid objection to this discussion and this action. We do have the brief from the attorney here to consider, and I think, as Mr. Nedzi says, it is a profound discussion of the fifth amendment.

I do think we need some advice from our counsel as to the constitutionality of our action, and to the reasons for our asking for this vote, and I think deserve a little time to consider it.

I think we are taking an almost unprecedented action in this committee, and I think we do need time to consider it.

Mr. DICKINSON. Will the gentleman yield?

Mr. BOB WILSON. I yield.

Mr. DICKINSON. I would like to say, Mr. Chairman, I would like or prefer we vote this morning, but if we don't vote this morning I prefer to go over to next week because I won't be here this afternoon.

The CHAIRMAN. That is a valid statement.

Mr. DAVIS. I would like to make one comment, having gone to the University of South Carolina Law School, that, for Mr. Treen's information, the brief is in the English common law and knowing at Tulane they teach the Napoleonic Code, between now and 2 o'clock we will be glad to help you interpret it.

[Laughter.]

The CHAIRMAN. The Chair might inform the gentleman from South Carolina I was holding my ace card trump up. I am a doctor of law from Loyola in the South.

Mr. BENNETT. I think we are all going to have difficulty whether we are lawyers or not lawyers in coming to a very thoughtful procedural answer in this matter in any few number of hours. But there are some things you can dispose of pretty quickly. As the attorney for the committee has pointed out, in the first place the great bulk of this material deals with the historic background of the fifth amendment. It has been some time since I have read this law, but I think it is good law, that the common law of England did not become the law of the United States unless there is a constitutional provision in a State constitution that provides that to be the case, and several States do have that kind of provision. But the Federal Government does not.

Therefore, we have to look only at the United States Constitution as it is. The United States Constitution as it is has the fifth amendment and it has nothing in it that would prohibit this particular citation from this committee. So it is my opinion, based upon this brief, that I have just read since I have come here, that there is nothing cited in this brief that gives any substance to the idea that the fifth amendment would allow this man this privilege.

Now, it is true that he cites Wigmore and other outstanding authorities, but these are textual authorities, and if you went to the footnotes of those cases there are dissertations, and, after all, Wigmore was a philosophical writer about law, like anybody else would be. You would find in the footnotes the cases would not support the idea—the fact that Elizabeth III and II and I, and Henry VIII and IV had an impact with regard to the common law in this matter—or would have any bearing at all in the law of the United States and/or the United States

Constitution. Therefore, what is it worth? The counsel of the committee would back me up in this as to what it is worth. There is nothing in this brief that sustains the idea this man has the right to remain silent.

Before I conclude my remarks I would like to say it has distressed me for a long time the Congress has had to go into this sort of thing so much. In other words, I wish that there were a better procedure. I wish, for instance, that the committees of Congress would make a decision as to whether it was worth while in a particular case to go through this procedural proposition. It just is inconceivable to me in every case it is important to drag through these complicated procedures. It may be that it is.

I am going to vote for this one today. I voted for every one since I have been here. But I do think we waste a lot of time on this. But as far as sheer law is concerned, I have no doubt whatsoever the committee is on sound ground in the current law.

I yield to Mr. Stratton.

Mr. STRATTON. Mr. Bennett, it is my opinion if this position of Mr. Liddy is sustained we will never get another witness to testify before Congress. I wonder if Mr. Nedzi feels the same way about that?

Mr. NEDZI. Well, if whoever has the time will yield to me, I don't think there is any question that that analysis of the problem as it confronts the Congress is correct.

Let me, in an effort to shed some more light on this, just read from the transcript of the hearing because, obviously, Mr. Price was so concerned.

Mr. BENNETT. Just one second. I want to get back my time to conclude. I will yield to you again in a minute.

I want to make clear, myself, I will vote for the thing brought in by the subcommittee. I don't think there is any law against it. I think the law is for it.

Now I yield.

Mr. NEDZI. Thank you, Mr. Bennett.

But Mr. Mel Price posed a question to Mr. Maroulis after the reading of the brief and some discussion was had in which he said the following:

I wonder if the counsel could explain to me as simply as possible why he feels that the mere taking of the oath, leaving aside all the other constitutional prerogatives the witness can follow without any pressure of the Subcommittee to try to force him to go beyond his constitutional privileges, leaving those aside, why that would be incriminatory?

Mr. MAROULIS. Mr. Price, in an abundance of caution I will preface my answer by stating that my position is based on the entire memorandum that I read to the Subcommittee, but in an effort to focus some attention to some of the underlying cases for the position that I have recommended to my client, the basic item is that at a criminal trial my client would have the absolute right not to take the stand. It is apparent to me that he faces criminal trials, not before this tribunal certainly, not before this Committee, but that day has come for him, and I believe it will come again. If the Fifth Amendment to the Constitution gives him the right not to take the stand at a trial, then according to my reasoning and based on the historical precedents I have set forth I believe he also has the right as long as he stands in that posture to refuse to take the oath before any duly constituted committee or tribunal.

The second portion of my concern is based on the publicity other witnesses before this particular Subcommittee have received, namely, they allegedly have invoked the Fifth Amendment, and it has been reported to the press. That is the type of item that I feel can be very damaging to my client in terms of his ability to have a fair trial at a subsequent date, either on the indictment for

which he has been convicted, and on which he presently has an appeal, or upon indictments which may come down from the grand juries that are presently investigating this case. I hope that helps.

I think that summarizes the position of counsel in this matter, and it is a question of whether the committee agrees with his contention or briefs that the fifth amendment does not extend to enabling a witness before a congressional committee to refuse to take an oath.

The CHAIRMAN. Mr. Slatinshek.

Mr. SLATINSHEK. Mr. Chairman, I would like to point out to the committee, very respectfully, that the committee has no alternative but to recommend this action to the floor of the House, because what we have at issue here is the challenge to the right of the committee to subpoena a witness and require testimony.

And, if you abrogate this right, you might as well abrogate any ability of any committee of the Congress to inquire into any legislative matter, and, so, this is a question to be decided by the courts. It is a question that properly—the issue should be presented to the courts, and therefore this committee has the responsibility to present this to the floor of the House so they can send this over to the courts and let the courts make a judicial decision on the issues here.

The CHAIRMAN. Mr. Ichord.

Mr. ICHORD. Mr. Chairman, I want to state that I am going to support the contempt citation because, as the counsel has stated and as the gentleman from Florida has stated, the Federal Government has not adopted the common law. Actually what this contempt citation amounts to is the swearing out, for all practical intents and purposes—is the swearing out of a warrant. The only difference between this case and a citizen swearing out a warrant is that the District Attorney does not have the discretion to refuse to proceed on the warrant. Here the statute directs the District Attorney to lay the matter before a grand jury to see if the law has been violated, and actually Mr. Liddy isn't facing much punishment in this case if he is found guilty. The statute only provides for 1 year, a maximum of 1 year in jail. And I think there is a fine in connection with it.

Mr. PIKE. Will the gentleman yield?

Mr. ICHORD. I yield to the gentleman.

Mr. PIKE. Mr. Chairman, I will probably support the contempt citation also. But I think I would also feel constrained to support at least some postponement of action on it until the members have had an opportunity to read the hearings.

It is not as if Mr. Liddy were running around loose, mugging people and attacking people on the streets. Mr. Liddy will be available for contempt citations or whatever when the committee elects to act, and I simply don't see how a delay until 2 o'clock this afternoon, or until next week, is going to change either the legal status or the safety of the Republic.

The CHAIRMAN. Mr. Young.

Mr. YOUNG. Mr. Chairman, thank you very much.

I would respectfully disagree with Mr. Slatinshek that we have no alternative than to vote out this resolution because this is the reason we are having this argument. There is another alternative and that is not to vote it out, and to determine how I am going to vote I have some questions and I would like to ask them at this time of Mr. Nedzi or anybody that served on the subcommittee that has the answers.

I would like to know, No. 1, did Mr. Liddy's attorney object to taking the oath on the part of Mr. Liddy on any religious grounds?

Mr. NEDZI. No. That question was specifically raised, and neither Mr. Liddy or his attorney objected to taking the oath on that ground, on religious grounds.

Mr. YOUNG. At any time did they cite any rights under the first amendment?

Mr. NEDZI. No rights under the first amendment were cited.

Mr. YOUNG. Mr. Chairman, I hope somebody can tell me what will be the effect upon a person who is cited for contempt of Congress. Does he go to jail or is he patted on the hand or is he reprimanded or just what happens?

Mr. NEDZI. The penalty for contempt is not less than 30 days nor more than 1 year, and/or \$1,000 in fines.

Mr. YOUNG. In the event that the time, would the sentence run concurrent with the present sentence or would it be in addition to?

Mr. NEDZI. It would be my judgment that would be strictly in the hands of the judge.

Mr. YOUNG. Mr. Nedzi stated that of all the 16 witnesses who appeared before the subcommittee, Mr. Liddy was the sole witness who refused to take the oath.

Mr. NEDZI. That is correct.

Mr. YOUNG. Were there any other witnesses presently with a matter pending before a court relative to this case?

Mr. NEDZI. Mr. Hunt is still before a court, and Mr. McCord is still before a court. As the gentleman knows from press accounts, both of them are considering additional legal proceedings.

Mr. YOUNG. As chairman, do you feel that they testified freely before the subcommittee?

Mr. NEDZI. That is a very good question, because the chairman, after listening to so many witnesses and reviewing the whole Watergate problem, has become very, very skeptical, so he hesitates to say that they testified freely. But they were reasonably expansive in their answers, and I have no evidence that they were not telling the truth.

Mr. YOUNG. I understand that the subcommittee hearings were held in closed executive session, is that correct?

Mr. NEDZI. That is correct.

Mr. YOUNG. Would the chairman cite for us the reason why it was held in a closed session?

Mr. NEDZI. It was determined matters involving the CIA are of such sensitive nature that the subcommittee should meet in closed session. Without question, most of the testimony presented to us could have been presented in open session, but there were periods in the hearing when very sensitive matters were touched upon, and appropriately belonged in executive session.

Mr. YOUNG. In other words, the concern for the security of these sensitive matters was the only reason for executive session rather than any attempt to protect the rights of any of the witnesses, or to protect them from public exposure?

Mr. NEDZI. I think that is a fair statement.

Mr. YOUNG. Mr. Chairman, thank you very much.

Mr. ICHORD. Will the gentleman yield?

Mr. YOUNG. I will be glad to. You used all my other time, you might as well have half of this. Go ahead.

Mr. ICHORD. Was there open roll call vote for the committee to go into executive session in the subcommittee?

Mr. NEDZI. There was.

Prior to the commencement of the hearings there was.

Mr. YOUNG. I yield back the balance of my time, Mr. Chairman. Thank you.

The CHAIRMAN. Any further comment?

Mr. RANDALL. Mr. Chairman.

The CHAIRMAN. Do you want to talk to the amendment?

Mr. RANDALL. I have a parliamentary inquiry.

I read most of the transcript, I understand there is a question of those who are lawyers against those who are not lawyers. I don't know anything about Mel Price's legal ability, but when you get down to page 18, Mel says he listened to Mr. Maroulis carefully, he can't find any prohibition in any of the arguments against administering the oath. That is good enough for me. This gentleman is not concerned about it, Mr. Liddy. He is a loser, and he is strictly thumbing his nose at this subcommittee and at this full committee. And if the judgment of the gentleman from California meant anything, we are back to this unanimous consent to put this off, and if the gentleman from Michigan has already moved his resolution, I will move the previous question at this time.

The CHAIRMAN. The previous question——

Mr. RANDALL. On the resolution.

The CHAIRMAN. The previous question is moved on the resolution, and the resolution is to postpone to next week——

Mr. RANDALL. No, no.

The CHAIRMAN. Wait a minute. I am not a lawyer, but the Pope don't have to be a Catholic, either.

[Laughter.]

The CHAIRMAN. I am doing pretty good presiding over you lawyers arguing around here.

It helps a little bit not to be a lawyer.

But the question is to ask Mr. Treen to amend his resolution to 2 o'clock this afternoon, and it was unanimous consent, without objection. Mr. Wilson then objected. Therefore, the parliamentary situation is the original motion.

Now, Mr. Randall has moved the previous question, which is not debatable. Therefore, we are voting on postponing until next week.

Mr. TREEN. Voting on the previous question.

The CHAIRMAN. On the previous question, yes.

Mr. TREEN. Not the motion.

The CHAIRMAN. On the previous question. I am glad my colleague from New Orleans keeps me straight here.

All in favor of the previous question signify by saying "aye"; opposed "no".

The "ayes" have it. The previous question is ordered.

Now we come to voting on Mr. Treen's motion which is to postpone to next week. The Chair will state that I agree with the chairman of the subcommittee for postponing to 2 o'clock this afternoon. I personally

object, but I will follow the wishes of the chairman of the subcommittee on postponing at all. I ask the chairman to state his position on the subject.

Mr. NEDZI. Mr. Chairman, I think that this is a very important matter, and I don't think what this committee does should go out from it under any kind of cloud whatsoever. I think each member should be satisfied that he had a thorough opportunity to review what is in the hearings, and what is proposed, and whatever any member personally feels is necessary for him to have in the sense of time to satisfy himself, I would be constrained to go along with.

The CHAIRMAN. In other words, Mr. Nedzi, you agree with Mr. Treen on a postponement to a date set by the chairman of the full committee? Is that correct, Mr. Treen, is that your motion?

Mr. TREEN. Yes, sir, that is my motion.

Mr. CHAIRMAN. All in favor of the motion signify by saying "aye"; opposed "no".

All those in favor of the motion signify by raising your hands.

Mr. SLATINSHEK. Twenty-three Ayes.

The CHAIRMAN. Twenty-three in favor.

Those opposed raise your hand.

Mr. SLATINSHEK. Nine.

The CHAIRMAN. Thirty-two members having voted, 23 in the affirmative, 9 in the negative, the motion is agreed to.

Mr. Randall.

Mr. RANDALL. I ask for a roll call vote at this point.

The CHAIRMAN. The committee stands recessed subject to the call of the Chair.

[Whereupon, at 11:39 a.m., the committee recessed subject to the call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C., Tuesday, July 31, 1973.

The committee met, pursuant to call, at 10:13 a.m. in room 2118, Rayburn House Office Building, Hon. F. Edward Hébert (chairman) presiding.

The CHAIRMAN. The committee will be in order.

Members of the committee, we are meeting this morning to continue consideration of the motion by Mr. Nedzi from the subcommittee on the CIA, which recommended a citation for Mr. Gordon Liddy. As you recall, last week, because of the novel presentation made by the counsel for Mr. Liddy before the subcommittee, and at the request of Mr. Treen, in order to give the members an opportunity to study the particular pleading, the committee voted to recess, subject to call of the Chair.

The Chair, of course, subject to that direction has called a meeting for this morning and will proceed accordingly.

Mr. Treen, the Chair will recognize you.

Mr. TREEN. Thank you, Mr. Chairman.

I want to just take a moment to express my appreciation to the chairman, the whole committee and the subcommittee, and the members for affording us the opportunity—those of us who wanted to consider

the presentation by Mr. Liddy's attorney and the entire transcript of the hearing in more detail at a time when we could do it in a detached manner, and not under pressure of the moment.

I appreciate that most of those who voted for the postponement were doing it really to accommodate the others who wanted to get into this in more detail, and I am thankful for that.

I did take advantage of the opportunity provided me by the committee to study the entire transcript. The *Eisler* decision was furnished to me by Mr. Nedzi, and the legal memorandum subsequently prepared by the staff. I do think some unique questions were raised, none of which may have any validity, but they are somewhat intriguing, one of whether a witness who is under conviction and who has his case on appeal may take the fifth to the extent that he can in a criminal case, which was the burden of Mr. Maroulis' argument that since the fifth amendment is the basis on which a person may not even be called to testify in a criminal case, he argued that that same proposition should apply before any other tribunal, or before any other body, at least in so long as the judicial process was working its will insofar as his case was concerned.

I think perhaps even more interesting than that, and I point out I don't think that was pressed, obviously, was the question of whether if you have the right to take the fifth amendment, you must do it after you are sworn, or if you can do it prior thereto.

While Mr. Liddy himself did not utter the so-called magic words of the fifth amendment, his attorney immediately proceeded to base his entire position on the fifth amendment, so you have the question, does the fifth amendment have to be taken after a person takes the oath or before? Then of course the subsidiary question, do the magic words have to be uttered by the individual who is called to testify, or may those words be uttered by his counsel?

These interesting questions, I simply wanted the opportunity to see if there were some compelling or persuasive arguments bottomed reasonably in precedent before we took this action.

There are some persons, Mr. Chairman—I don't want to quarrel with their position, the integrity of the position—but they suggest that this is a matter that simply should go to the courts. I think it should go to the courts myself, but I do think that we have an obligation, each of us individually, to look at any argument that is decently presented.

I assume from Mr. Nedzi's statement the other day, and from the transcript, that this position by Mr. Liddy's counsel was presented in a respectful manner, that we have the opportunity to at least consider these before we put a person to the task of further legal fees in defending himself. Secondly, so that we can be better prepared in the event some of these same questions come up on the floor, and I hope that they won't.

Again I thank the committee for the postponement and for this brief indulgence, and I intend to support the resolution.

The CHAIRMAN. Thank you very much, Mr. Treen.

Mr. Nedzi, do you care to press your motion?

Mr. NEDZI. Mr. Chairman, at this time I would like to renew my motion to adopt the draft resolution which is before the members at the present time.

The CHAIRMAN. In order to refresh the memory of the members of the committee, Mr. Counsel, you read that resolution.

Mr. HOGAN. Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Armed Services of the House of Representatives as to the refusal of George Gordon Liddy to be sworn or to take affirmation to testify before a duly authorized subcommittee of the said Committee on Armed Services on July 20, 1973, together with all the facts in connection therewith, under the seal of the House of Representatives, to the U.S. Attorney for the District of Columbia, to the end that the said George Gordon Liddy may be proceeded against in the manner and form provided by law.

The CHAIRMAN. Mr. Pike.

Mr. PIKE. I move the previous question on the resolution.

The CHAIRMAN. Mr. Pike moves the previous question on the resolution.

There will be a roll call under the rules on this resolution. A quorum being present, it will also be noted, when your name is called, those in favor of Mr. Nedzi's resolution will vote "aye"; those opposed will vote "no."

Mr. NEDZI. Point of order. Don't we have a vote on the previous question?

The CHAIRMAN. Yes.

All in favor of the previous question signify by saying, "aye."

Opposed, "no."

The previous question is ordered. Thank you for calling my attention to that.

Call the roll, Mr. Slatinshek.

[A roll call was taken.]

Mr. SLATINSHEK. Thirty-three members voting in the affirmative; none in the negative. The resolution is approved.

The CHAIRMAN. Thirty-three members having voted, 33 in the affirmative, none in the negative, the resolution is approved, 33 to nothing.

Members of the committee, we have a busy day on the floor today. I personally thank those members who stayed last evening to the twilight of the day, to the end, until we finished the general debate.

Of course yesterday was the calm of the storm, which I recognize, and I would urge that the members please be on the floor today all day long in order that we can thoroughly debate the amendments which will be offered in carloads, and vote the way you all did this morning, and you will have my continuing appreciation. [Laughter.]

Mr. DICKINSON. Do you want all ayes?

The CHAIRMAN. I want all ayes, and none wearing blinders.

The committee stands recessed, subject to call of the Chair.

[Whereupon, at 10:23 a.m., the committee recessed, subject to call of the Chair.]

93D CONGRESS 1st Session	}	HOUSE OF REPRESENTATIVES	{	REPORT No. 93-453
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PROCEEDINGS AGAINST GEORGE GORDON LIDDY

[Pursuant to Title 2, United States Code, Sections 192 and 194]

September 10, 1973.—Ordered to be printed

Mr. NEDZI, from the Committee on Armed Services,
submitted the following

REPORT

CITING GEORGE GORDON LIDDY

INTRODUCTION

On Friday, July 20, 1973, during an executive session of the Special Subcommittee on Intelligence of the House Committee on Armed Services, Mr. George Gordon Liddy, who was called as a witness, pursuant to a Writ of Habeas Corpus, refused to be sworn prior to offering any testimony or claiming his privilege under the Fifth Amendment. A quorum being present, the subcommittee voted to report the matter to the full House Committee on Armed Services with a recommendation for reference to the House of Representatives under procedures which could ultimately result in Mr. Liddy being cited for contempt of Congress. [See Appendix 1.] On July 26, 1973 the House Committee on Armed Services met to receive the report of the Special Subcommittee on Intelligence with regard to the refusal of Mr. Liddy to be sworn. On July 31, 1973, the full committee, a quorum being present, on a record vote of 33-0, recommended the adoption of a resolution as follows:

RESOLUTION

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Armed Services of the House of Representatives as to the refusal of George Gordon Liddy to be sworn or to take affirmation to testify before a duly authorized subcommittee of the said Committee on Armed Services on July 20, 1973, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that the said George Gordon Liddy may be proceeded against in the manner and form provided by law.

[See Appendix 2.]

BACKGROUND

At the time of the subcommittee hearings, Mr. Liddy was in confinement in the District of Columbia Jail as the result of his conviction

on the Watergate breakin. Accordingly, the subcommittee petitioned Chief Judge John J. Sirica of the United States District Court for the District of Columbia for a Writ of Habeas Corpus Ad Testificandum as the only means of obtaining Mr. Liddy's presence before the subcommittee. In his discretion Judge Sirica signed that petition and an order was delivered to the United States Marshal for Mr. Liddy's appearance before the subcommittee on July 20, 1973. [See Appendix 1, pp. 16-17.] Mr. Liddy appeared as ordered.

In his appearance Mr. Liddy was asked to rise and take the oath. He refused to take the oath as a witness. Subsequently, his counsel presented an extensive brief after which Mr. Liddy again refused to take the oath. The witness claimed he had the absolute right under the Fifth Amendment to remain completely silent with regard to any offering before the subcommittee. He sought to establish that contention based upon his current conviction on the Watergate breakin which is under appeal, and the possibility of future indictments being brought against him. He further argued a Sixth Amendment right to avoid what he claims to be prejudicial publicity in the media should he claim his Fifth Amendment rights. Mr. Liddy agreed that his refusal to be sworn was not based on any religious grounds.

AUTHORITY

The Special Subcommittee on Intelligence is a duly constituted subcommittee of the House Committee on Armed Services pursuant to House Resolution 185, 93d Congress, and the appointment made during the organization meeting of the Committee on Armed Services on February 27, 1973. [See Appendix 1, pp. 11-16.] In addition, the chairman of the subcommittee was given an order directing an inquiry into any CIA involvement in Watergate-Ellsberg matters. The subcommittee commended those hearings on May 11, 1973, and in sixteen sessions since that date has had before it some twenty-four witnesses bearing on the subject of the inquiry. Prior to his appearance on July 20, 1973, Mr. Liddy, through his attorney, was advised by telephone of the purpose of the investigation and was asked to acknowledge that information by letter. That was done by Mr. Liddy's attorney on June 20, 1973. [See Appendix 1, pp. 17-18.] As indicated above, Mr. Liddy was properly before the subcommittee on a valid, duly executed Writ of Habeas Corpus Ad Testificandum. [See Appendix 1, p. 16.]

CONCLUSION

The position of the committee is that all substantive and procedural legal prerequisites have been satisfied to date and that the House of Representatives should adopt the resolution to refer the matter to the appropriate U.S. Attorney. Title 2, United States Code, Sections 192 and 194 provide the necessary vehicles for taking this action. Section 192 provides the basis for indictment should a witness before either House of Congress refuse to answer any question pertinent to the inquiry. Section 194 provides the vehicle for certifying such a result to the appropriate U.S. Attorney. The central question is whether failure to take the oath constitutes a refusal to give testimony. We believe it does.

Accordingly, it is the position of the committee that the proceedings to date are in order and we recommend that the House adopt the resolution to report the fact of the refusal of George Gordon Liddy to be sworn to testify at a meeting of the Special Subcommittee on Intelligence on July 20, 1973 together with all the facts in connection therewith to the end that he may be proceeded against as provided by law.

A memorandum of law is contained in Appendix 3.

APPENDIX I

**SPECIAL SUBCOMMITTEE ON INTELLIGENCE HEARINGS, ON
JULY 20, 1973, IN CONNECTION WITH THE CIA-WATERGATE-
ELLSBERG MATTER. WITNESS: GEORGE GORDON LIDDY**

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Friday, July 20, 1973.

The subcommittee met, pursuant to recess, at 10:35 a.m., in room 2337, Rayburn House Office Building. Hon. Lucien N. Nedzi, chairman of the subcommittee, presiding. Also present were Mr. Hébert (chairman of the House Committee on Armed Services), Mr. Bray, Mr. Price, and Mr. Arends, members of the subcommittee; and Mr. Slatinshek and Mr. Hogan, counsel to the committee.

Mr. NEDZI. The subcommittee will please come to order.

This morning we are continuing our hearings on the CIA-Watergate-Ellsberg matter, and we have called as a witness Mr. George Gordon Liddy, formerly associated with the White House and the Committee for the Re-Election of the President.

With Mr. Liddy is his attorney, Mr. Peter L. Maroulis.

Mr. Liddy, will you rise and take the oath?

Do you solemnly swear that the testimony you are about to give in this hearing shall be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LIDDY. Mr. Chairman, with all due respect to you personally and to the body of the Congress, for reasons which will be explained by my counsel I respectfully decline to take the oath as a witness.

Mr. NEDZI. The committee will hear your counsel.

Mr. MAROULIS. Mr. Chairman, I am Peter L. Maroulis. I am an attorney. My office address is 11 Cannon Street, Poughkeepsie, N.Y.

I have an argument on behalf of my client that deals primarily with the fifth amendment; and the best way I can explain my position is to capsule it by saying that my client was indicted, tried, convicted, and has an appeal pending.

At his trial he had a right not to take the stand. At retrial he will have that same right, if we are successful in our appeal.

The basis for my position regarding Mr. Liddy's refusal to take the oath is historical. With the indulgence of the subcommittee, it will take me a few minutes to explain it. May I proceed?

Mr. NEDZI. Please proceed.

Mr. MAROULIS. When the Constitution-makers drew up the fifth amendment, they were not articulating, a privilege bestowed on the individual by the State; rather, they were stating a right of the individual which was founded in a thousand years of common law history, and which would thenceforth be formally protected and guaranteed in this Nation by the Constitution.

The first clause of the fifth amendment states: "No person shall be held to answer for a capital, or otherwise infamous, crime, unless on a presentment or indictment of a Grand Jury * * * " In this clause is seated the very basis of our legal system, which is accusatorial rather than inquisitorial. No man is bound to accuse himself.

Initially, England followed the ancient Germanic adversary procedure for determining innocence or guilt. Upon accusation proof of innocence would be established three ways: (1) Ordeal, wherein the accused would be miraculously untouched if innocent; (2) compurgation, wherein friends or kindred of the accused and the accused himself would swear to his innocence; (3) trial by battle, wherein the accused would be victorious if innocent. These irrational methods came to be replaced in the 800's and thereafter by an accusational system on the part of the state, and an inquisitorial system on the part of the church.

From the 13th century to the end of the 17th century there was continual opposition to the inquisitional method. It was a struggle between common law and Romish procedure, the common law being basically accusatorial and the Roman law being inquisitorial.

In the 12th century Henry II extended the old Frankish system of inquiry by neighbors, which is the beginning of our grand and petit juries. At this time the accused had the Germanic right to the oath of purgation, or the oath of innocence, whereby he showed his innocence with compurgators.

In 1215 King John signed the Magna Charta, articles 38 and 39 of which say:

"No. 38. No bailiff from henceforth shall put any man to his law upon his own bare saying, without credible witnesses to prove it.

"No. 39. No freeman shall be taken or imprisoned, or disseised, or outlawed, or banished, or any ways destroyed, nor will we pass upon him, nor will we send upon him, unless by the lawful judgment of his peers, or by the law of the land."

It would appear that these two articles articulate in writing for the first time the requirement of presentment which appears in almost every statute pertaining to legal case procedure during the next three centuries, and which finally evolved into the first clause of the fifth amendment. Circuit Justice Wisdom, speaking for the majority, in *De Luna v. United States* (308 Federal Second 140, 144-*5) allows that the germ of the fifth amendment might appear in article 38 of the Magna Charta.

While these changes were taking place in the civil law there were also innovations in the canon law. From 1198 to 1216 Innocent III instituted the inquisitional system through a series of decretals outlining the ex officio oath procedure in which the church official had the power, by virtue of his office, to require a person to answer truthfully upon his oath all questions put to him. The official was not to proceed against a person without reason, either common report or notorious suspicion. Cardinal Otto introduced this procedure into England in a constitution resulting from the Pan-Anglican Council of London in 1236. My citation for this information is Wigmore, pages 270-276.

The civil courts begin to abandon the old method of oath by compurgation or oath of innocence in favor of the more efficient method of the canon oath *ex officio*. At the same time, the safeguards that Innocent intended were ignored in both the canon and civil courts, resulting in widespread opposition to the procedure.

Throughout the following 500 years of struggle against the *ex officio* oath the grounds were essentially the same:

(1) People were opposed to judgment by an official rather than their own grand jury of neighbors and peers;

(2) They were opposed to the interrogatory fishing expeditions which resulted when parties were questioned without proper presentment, that being contrary to the Magna Charta and the common law;

(3) They were opposed to a procedure which required a man to accuse himself, his family or his friends.

During the 14th century there were repeated petitions to the King to prohibit the use of the oath. As a result Edward III issued several important statutes. Relating to civil courts, 42 Edward III, chapter 3, states:

"No man shall be put to answer without presentment before justices, or matter of record, or by due process and writ original, according to the old law of the land."

Again citing Wigmore, page 268. Edward III's *De Articuli Cleri* incorporates a previous prohibition by Henry III, limiting the use of the oath by ecclesiastical courts to matrimonial and testamentary causes:

"And they suffer not that any Laymen within their Bailiwick, come together in any Places to make such Recognitions by their Oaths, except in Causes of Matrimony and Testamentary."

In 1382 the prelates had an alleged act of Parliament put on the statute books which was supposedly enacted during the second session of Parliament in the 5th year of the reign of Richard II. The act, entitled "*Statutes of the Realm 25-26*," gave the church the power it wanted against heretics—enforced imprisonment of suspects until they confessed. But at their next session Commons said they had never assented to the enactment, and asked the King to declare the act void; he did so.

De Articulus Cleri was made ineffectual by Henry IV, who gave the canon courts the right to "determine heresy according to the canonical decrees." That is 2 Henry IV, chapter 15.

In 1487 the statute which sanctioned the Star Chamber—that is 3 Henry VII 1—expressly gave it the power to examine the accused on oath in criminal cases, with no mention of the restrictions named in the ecclesiastical rulings, such as necessary presentment. This was the first formal statement acknowledging power to use the *ex officio* oath in civil cases; though, as above mentioned, it was not the first use of it. The authority behind this power was purely statutory, and not in keeping with the common law. The Star Chamber survived almost 200 years under this statute.

To abate protest against the *ex officio* oath Henry VIII enacted a statute providing that:

"Every person and persons being presented or indicted of [heresy] or duly accused or detected thereof by two lawful wyt-

nesses at the leest to any Ordinaries of this Realmn having power to examyne heresy, accusation or presentment and none otherwyse nor by any other meanes by cited convented arrested [or] taken * * *

That is 25 Henry VIII, chapter 14.

The grievance relieved by this statute is clearly against the *ex officio* oath and the negligence on the part of the courts in not requiring due presentment.

Edward VI took away the church's jurisdiction over heresy. Mary repealed the statutes of Henry VIII and revived those of Henry IV and the repudiated statute of Richard II. In the first year of the reign of Elizabeth she consolidated all power, ecclesiastical and civil, under the auspices of the crown, thus giving her complete jurisdiction in all matters. She had the Star Chamber with its *carte blanche* statutory powers to investigate and decide civil matter; and she had the Court of High Commission with equally undefined power in ecclesiastical cases.

The opposition this time was led by the Puritans. The basis of their dissent was that the inquisitional technique of forcing a man to accuse himself or inform on his family and friends on oath was contrary to the common law tradition and to the dignity of man. The Puritans had good legal counsel and the sympathy of Commons throughout the battle. During this time the common law courts nullified punishments imposed by the High Commission for refusing to take the oath.

During this time the courts, speaking for the Queen, made many erroneous historical arguments refuting the accurate historical arguments made by the Puritans; thus it is sometimes difficult to separate fact from half-truth and fiction. But as Puritan opposition grew cases arose in which man flatly refused to take the oath; their statements and the decisions in these cases are irrefutable.

In 1584 an alliance was formed between the Puritans and Commons; and there was public support in the form of letters to the Queen for the Puritan cause, signed by many prominent members of Lords. Also in this year Commons drew up a series of complaints, one of which was:

"* * * to forbear * * * examination *ex officio mero* of godly and learned preachers not detected [accused] unto them * * * and only to deal with them for such matters as shall be detected in them * * *"

The legal issue centered on a matter of procedure. The Star Chamber and High Commission were requiring men to answer on oath to crimes for which there was no presentment, and sometimes to answer on oath to questions designed to ferret out a chargeable crime.

In 1590 the preacher Udall before the High Commission refused to answer, on the ground that there was no indictment against him. However, a few months later, before a common law jury with proper presentment, he could not make that claim.

Udall's argument against answering on oath was a new one in the Puritan struggle. It was an appeal to freedom of conscience, and claimed that the oath was contrary to common law tradition. This reliance on the history of the common law tradition was the turning point in the Puritan struggle against royal prerogative.

The same circumstances held in the Jesuit Garnet's trial of 1606, which is reported in 2 How, State Trials, page 218:

"Garnet: 'When one is asked a question before a magistrate, he is not bound to answer before some witnesses be produced against him, "quia nemo tenetur prodere seipsum".'"

As Wigmore notes, this is not a flat refusal to answer, only an acknowledgement of the right to proper presentment. And John Lilburne, which is quoted, or cited, in 3 How, State Trials 1315, says "If I had been proceeded against by a bill I would have answered."

In his appeal to the House of Lords in 1646 Lilburne's lawyers argued:

"The ground whereof being that Mr. Lilburne refused to take an oath to answer all such questions as should be demanded of him, it being contrary to the laws of God, nature, and the kingdom, for any man to be his own accuser."

The Lords vacated his sentence, saying it was "illegal, and most unjust, against the liberty of the subject and the law of the land and Magna Charta."

It should be noted that the Star Chamber and High Commission had been abolished in 1641; so that the *ex officio* oath was prohibited. At the time they were abolished England was in a state of upheaval: Commons was in open revolt; Charles had given up his royal prerogative. Thus ended in England the inquisitorial practice of forcing a man to accuse himself.

Thereafter it began to be accepted that no man is bound to incriminate himself on any charge, no matter how instituted, in any court. The jurisdictional distinction of proper presentment became unnecessary. Acceptance came first in the criminal trials and afterwards in civil cases. By the end of Charles II's reign the privilege to remain silent was extended to ordinary witnesses, not just the accused. However, this was in reality not much more than a rule that judges would recognize only on demand. "The old habit of questioning and arguing the accused died hard—did not disappear, indeed, until the 1700's had begun."

In the light of earlier grievances and their resulting statutes, it is clear that Wigmore's appraisal of the development of the right to silence as an outgrowth of jurisdictional jealousy between church and state in the 16th and 17th centuries is not an adequate explanation. The accusatorial system goes as far back as the Germanic adversary procedure, which began to change around 800 toward a more rational judicial process.

The oath of the ancient common law was an oath of innocence, not an inquisitorial oath. With the introduction of the Romish inquisitorial procedure, the English people fought against the power that system affords the state, as being contrary to common law and the dignity and autonomy of the individual.

As a result, the fifth amendment to the U.S. Constitution was adopted, and the fifth amendment reads:

"No person shall be held to answer for a capital or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, nor shall be compelled in any criminal case to be a witness against himself nor be deprived of life, liberty or property without due process of law."

I am urging, Mr. Chairman, that the fifth amendment contains two separate provisions: One, that there be an indictment, namely, that "no person shall be held to answer * * * unless upon presentment or indictment of a Grand Jury;" and the second portion being that which is generally recognized and understood as being the invocation of the fifth amendment, namely, "* * * nor shall be compelled in any criminal case to be a witness against himself * * *"

The essence of the distinction urged on behalf of Mr. Liddy is that the fifth amendment privilege affords a defendant greater safeguards than it does an ordinary witness. In support of this contention I refer to the basic interpretations of the fifth amendment and suggest they be interpreted in support of his contention. Quoting from Wigmore:

"The privilege is a prerogative of a defendant not to take the stand in his own prosecution * * *; it is also an option of a witness not to disclose self-incriminating knowledge in a criminal case, and in a civil case, and before a grand jury and legislative committee and administrative tribunal."

Mr. NEDZI. Would you please repeat that?

Mr. MAROULIS. Yes, sir.

"The privilege is a prerogative of a defendant not to take the stand in his own prosecution * * *; it is also an option of a witness not to disclose self-incriminating knowledge in a criminal case, and in a civil case, and before a grand jury and legislative committee and administrative tribunal."

Citing 8 Wigmore, evidence, section 2251. That is the McNaughton revision of 1961.

Again citing Wigmore,

"The accused in a criminal case, therefore, is exempt from all answers whatever, for, at least on the prosecution's assumption, they are incriminating." (8 Wigmore, evidence, section 2260 [McNaughton revision 1961]).

"For the party defendant in a criminal case, the privilege has been construed to permit him to refuse to answer any question whatever in the cause. (Section 2268 supra)

"(a) This being so, the prosecution could nevertheless on principle have a right at least to call him to be sworn because, as with an ordinary witness, it could not be known beforehand whether he would exercise his privilege. But no court has sanctioned this application of the principle. The contrary is universally held." (Section 2268 supra)

"The accused has a privilege not to take the stand." (*Cephus v. United States*, 324 Federal second 893), which is a District of Columbia circuit opinion, and *United States v. Aguci*, 301 Federal second, a Federal second circuit case.

In *Frank v. United States*, 347 Federal second 486, the District of Columbia circuit set forth the principle as follows:

"To repeat, the Government may not convict a person and then, pending his appeal, compel him to give self-accusatory testimony relating to the matters involved in the conviction. Any other construction of the statute would lead to such potential abuse as to preclude such construction if it may reasonably be avoided consistently with the congressional purpose. Our construction and

application of the statute we think coincides with that purpose * * *” (*Frank v. United States*, supra, at 491)

The U.S. Court of Appeals for the District of Columbia circuit considers a position of a defendant called before a grand jury to be analogous to that of a defendant on trial. In *Jones v. United States*, 342 Federal second, 863, the court states:

“At a trial, putting the accused on the witness stand without his consent and asking him anything at all would violate his constitutional privilege against self-incrimination. We think taking him before the grand jury without his consent and asking him anything violates his privilege.”

May I have a moment sir?

In conclusion I would add that it is common knowledge that my client not only has been indicted, convicted, and has an appeal pending, but that he is the target of several grand jury investigations relating to the very subject matter under inquiry by this subcommittee.

I therefore urge this subcommittee to accept the position that my client has taken, and not to consider it to be in anyway frivolous or in any way intended to be arrogant.

Mr. NEDZI. Did you wish to make any statement, Mr. Liddy?

Mr. LIDDY. No, Mr. Chairman, I do not. Thank you, sir.

Mr. NEDZI. The Chair will state that the subcommittee was duly created pursuant to procedures of the Congress, was granted authority to issue subpoenas. Pursuant to that authority, the witness before us today was called.

It is the judgment of the subcommittee that the proceeding is taking place pursuant to the law as passed by the 93d Congress.

At this point, without objection, the Chair will place in the record House Resolution 185, 93d Congress, first session, as well as a letter from the chairman of the full Armed Services Committee to me as chairman of the Special Subcommittee on Intelligence.

[H.R. 185, 93d Cong., 1st sess.]

RESOLUTION

Resolved, That, effective January 3, 1973, the Committee on Armed Services, acting as a whole or by subcommittee, is authorized to conduct full and complete studies and investigations and make inquiries within its jurisdiction as set forth in clause 3 of rule XI of the Rules of the House of Representatives. However, the committee shall not undertake any investigation of any subject which is being investigated for the same purpose by any other committee of the House.

SEC. 2. (a) For the purpose of making such investigations and studies, the committee or any subcommittee thereof is authorized to sit and act, subject to clause 31 of rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within or without the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers, and documents, as it deems necessary. Subpoenas may be issued over the signature of the chairman of the committee or any member designated by him and may be served by any person designated by such chairman or member. The chairman of the committee, or any member designated by him, may administer oaths to any witness.

(b) Pursuant to clause 28 of rule XI of the Rules of the House of Representatives, the committee shall submit to the House, not later than January 2, 1975, a report on the activities of that committee during the Congress ending at noon on January 3, 1975.

SEC. 3. (a) Funds authorized are for expenses incurred in the committee's activities within the United States; however, local currencies owned by the United States shall be made available to the Committee on Armed Services of the House of Representatives and employees engaged in carrying out their official duties for the purposes of carrying out the committee's authority, as set forth in this resolution, to travel outside the United States. In addition to any other condition that may be applicable with respect to the use of local currencies owned by the United States by members and employees of the committee, the following conditions shall apply with respect to their use of such currencies:

(1) No member or employee of such committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in section 502(b) of the Mutual Security Act of 1954 (22 U.S.C. 1754).

(2) No member or employee of such committee shall receive or expend an amount of local currencies for transportation in excess of actual transportation costs.

(3) No appropriated funds shall be expended for the purpose of defraying expenses of members of such committee or its employees in any country where local currencies are available for this purpose.

(4) Each member or employee of such committee shall make to the chairman of such committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or, if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. All such individual reports shall be filed by the chairman with the Committee on House Administration and shall be open to public inspection.

(b) Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished for the same period of time in any other country, irrespective of differences in time zones.

[H.A.S.C. No. 98-3]

ORGANIZATION MEETING OF HOUSE COMMITTEE ON ARMED SERVICES, 93D CONGRESS

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
Washington, D.C. Tuesday, February 27, 1973.

The committee met, pursuant to notice, at 10:25 a.m., in room 2118, Rayburn House Office Building, the Honorable F. Edward Hébert (chairman) presiding.

The CHAIRMAN. The committee will be in order.

Members of the committee, this is our first formal meeting, the organization meeting for the first session of the 93d Congress. Since last year, the committee has been enlarged from 41 to 43 members, and I am sorry that members in the front row are a little crowded, but that is not a thing of my doing.

* * * * *

The CHAIRMAN. Members of the committee, we will proceed to the regular business. I will recognize Mr. Price, who will offer Committee Resolution No. 1: the proposed rules governing the procedure of the committee.

Mr. MELVIN PRICE. Mr. Chairman, I offer the resolution and ask for its immediate consideration.

Mr. SLATINSHEK. The resolution offered by Mr. Price reads as follows:

"Resolved, That the Committee on Armed Services, House of Representatives, adopt the following rules governing the procedure for the committee during the 93d Congress:"

* * * * *

Mr. SLATINSHEK. "1. The Committee on Armed Services will meet every Tuesday at 10 a.m., and at such other time as may be fixed by the chairman, or by the written request of a majority of the members of the committee.

* * * * *

"6. (a) The Committee on Armed Services of the House of Representatives shall be organized to consist of five standing legislative subcommittees, to be designated 'Subcommittee No. 1,' 'Subcommittee No. 2,' 'Subcommittee No. 3,' 'Subcommittee No. 4,' and 'Subcommittee No. 5.'

* * * * *

"(c) The chairman of the full committee, at such time and for such purposes as he may deem advisable in the interest of committee business, is authorized to appoint additional special subcommittees for the purpose of investigating specific subjects or considering specific legislation.

"(d) The chairman shall have authority to refer all bills, resolutions, or other matters to any and all subcommittees or to the full committee. A subcommittee to which a bill, resolution, or other matter has been referred shall proceed with all possible diligence, if a majority of a quorum so directs, with appropriate inquiry and report its findings and recommendations to the full committee, but the chairman of the full committee shall have authority to discharge a subcommittee from consideration of any bill, resolution, or other matter referred thereto and have such measure or matter considered by the full committee. A majority vote of a quorum of a subcommittee will be required to report a bill, resolution, or other matter to the full committee or to table any such measure or matter in the subcommittee.

* * * * *

Mr. MELVIN PRICE. I move the adoption of the resolution.

The CHAIRMAN. A motion has been made.

* * * * *

The CHAIRMAN. Those in favor of adopting the rules as amended will signify by saying aye when your name is called.

Those opposed, no.

Mr. Slatinshek, call the roll.

(A rollcall was taken.)

Mr. SLATINSHEK. Mr. Chairman, all 43 members voting in the affirmative, the rules are adopted by the committee.

The CHAIRMAN. The rules are adopted. We will proceed from there.

* * * * *

The CHAIRMAN.

* * * * *

Now, members of the committee, under the authority of the rules just adopted unanimously by the committee, the Chair will ask that Mr. Slatinshek read out the subcommittees authorized by those rules, and the members as selected by the chairman on the Democratic side, and the members selected on the Republican side by Mr. Bray.

* * * * *

The CHAIRMAN. Thank you, very much.

Now, members of the committee, in accordance with the rules as adopted, we have two special subcommittees to appoint at this time, in addition to the five committees.

Members of the committee, in addition to the establishment of the standing legislative subcommittees, under the rules of the committee, I am empowered to establish additional special subcommittees to properly discharge committee business.

In accordance with this authority, I am today establishing two special subcommittees. The first is the Subcommittee on Intelligence.

As the members of the committee will recall, this subcommittee functioned during the 92d Congress during which time it was directed to make periodic inquiries into all phases of intelligence activities within the Department of Defense and within the agencies established under the National Security Act, and to make legislative recommendations when appropriate.

That subcommittee, under the chairmanship of our colleague, Mr. Nedzi, discharged its responsibilities in a very excellent fashion, and, therefore, I am reestablishing that subcommittee.

I pause now to pay tribute to the manner in which Mr. Nedzi conducted that committee. It is a very sensitive committee; extremely sensitive. It is a committee that takes the greatest amount of tact and understanding to chair. Mr. Nedzi never faltered or never failed in any area.

Of particular significance is the fact that, as everybody knows, certainly he and I disagree in many political philosophies, and the fact I chose him is an added tribute in my implicit belief in his integrity and honesty, and as an effort to make the committee a whole committee and not a sectional or individual committee with individual people doing individual things for whatever purpose they want.

I pay Mr. Nedzi the highest tribute I can, and I know that he will carry on in this Congress.

The committee will be composed of Mr. Nedzi as chairman, Mr. Hébert, Mr. Melvin Price, Mr. Fisher, Mr. Bray, Mr. Arends, and Mr. Bob Wilson

* * * * *

The CHAIRMAN. The committee adjourned until 10 a.m. tomorrow.

(Whereupon, at 11:50 a.m. the committee adjourned, to reconvene at 10 a.m., Wednesday, February 28, 1973.)

POWERS AND DUTIES, COMMITTEE ON ARMED SERVICES, NINETY-THIRD CONGRESS

The House Committee on Armed Services was established January 2, 1947, as a part of the Legislative Reorganization Act of 1946 (60 Stat. 812), and combined the Committees on Military Affairs and on Naval Affairs which were created in 1822. Rule XI(3), U.S. House of Representatives, provides that all proposed legislation, messages, petitions, memorials, and other matters relating to the following listed subjects shall be referred to the Committee on Armed Services:

- (a) Common defense generally.
- (b) The Department of Defense generally, including the Departments of the Army, Navy, and Air Force generally.
- (c) Ammunition depots; forts; arsenals; Army, Navy, and Air Force reservations and establishments.
- (d) Conservation, development, and use of naval petroleum and oil shale reserves.
- (e) Pay, promotion, retirement, and other benefits and privileges of members of the Armed Forces.
- (f) Scientific research and development in support of the armed services.
- (g) Selective service.
- (h) Size and composition of the Army, Navy, and Air Force.
- (i) Soldiers' and sailors' homes.
- (j) Strategic and critical materials necessary for the common defense.

Investigative Authority

House Resolution 185, adopted by the House of Representatives on Feb. 21, 1973, provides as follows:

"That, effective Jan. 3, 1973, the Committee on Armed Services, acting as a whole or by subcommittee, is authorized to conduct full and complete studies and investigations and make inquiries within its jurisdiction as set forth in clause 3 of rule XI of the Rules of the House of Representatives. However, the committee shall not undertake any investigation of any subject which is being investigated for the same purpose by any other committee of the House.

"Sec. 2. (a) For the purpose of making such investigations and studies, the committee or any subcommittee thereof is authorized to sit and act, subject to clause 31 of rule XI of the Rules of the House of Representatives, during the present Congress at such times and places within or without the United States, whether the House is meeting, has recessed, or has adjourned, and to hold such hearings and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memorandums, papers and documents, as it deems necessary. Subpenas may be issued over the signature of the chairman of the committee or any member designated by him and may be served by any person designated by such chairman or member. The chairman of the committee, or any member designated by him, may administer oaths to any witness.

"(b) Pursuant to clause 28 of rule XI of the Rules of the House of Representatives, the committee shall submit to the House, not later than Jan. 2, 1973, a report on the activities of that committee during the Congress ending at noon on Jan. 3, 1975.

"Sec. 3. (a) Funds authorized are for expenses incurred in the committee's activities within the United States; however, local currencies owned by the United States shall be made available to the Committee on Armed Services of the House of Representatives and employees engaged in carrying out their official duties for the purposes of carrying out the committee's authority, as set forth in this resolution, to travel outside the United States. In addition to any other condition that may be applicable with respect to the use of local currencies owned by the United States by members and employees of the committee, the following conditions shall apply with respect to their use of such currencies:

"(1) No member or employee of such committee shall receive or expend local currencies for subsistence in any country at a rate in excess of the maximum per diem rate set forth in sec. 502(b) of the Mutual Security Act of 1954 (22 United States Code 1754).

"(2) No member or employee of such committee shall receive or expend an amount of local currencies for transportation in excess of actual transportation costs.

"(3) No appropriated funds shall be expended for the purpose of defraying expenses of members of such committee or its employees in any country where local currencies are available for this purpose.

"(4) Each member or employee of such committee shall make to the chairman of such committee an itemized report showing the number of days visited in each country whose local currencies were spent, the amount of per diem furnished, and the cost of transportation if furnished by public carrier, or, if such transportation is furnished by an agency of the United States Government, the cost of such transportation, and the identification of the agency. All such individual reports filed by the chairman with the Committee on House Administration and shall be open to public inspection.

"(b) Amounts of per diem shall not be furnished for a period of time in any country if per diem has been furnished for the same period of time in any other country, irrespective of differences in time zones."

Funds to support House Resolution 185 are contained in House Resolution 264, approved by the House of Representatives on Mar. 20, 1973.

MAY 21, 1973.

HON. LUCIEN N. NEDZI,
*Chairman, Subcommittee on Intelligence, House Committee on Armed Services,
Washington, D.C.*

DEAR MR. CHAIRMAN: For the purpose of fully discharging its responsibilities, the Subcommittee on Intelligence is vested with the authority granted and conferred in House Resolution 185, 98d Congress.

The Subcommittee may, therefore, require by subpoena or otherwise, the attendance and testimony of such witnesses and production of such books, records, correspondence, memoranda, papers, and documents as it deems necessary. Subpoenas may be issued by you, as Chairman of the Subcommittee, with the approval of a majority of the members of the Subcommittee. Witnesses testifying before the Subcommittee may be sworn at the discretion of the Chairman and with the concurrence of the majority of the Subcommittee members present.

Sincerely,

F. EDW. HÉBERT,
Chairman.

MINUTES—SPECIAL SUBCOMMITTEE ON INTELLIGENCE, HOUSE ARMED SERVICES
COMMITTEE—JUNE 12, 1973

The Special Subcommittee on Intelligence met in Executive Session at 10:00 a.m., Room 2337 Rayburn Building, to consider subcommittee business and agreed to defer to the Senate Select Committee on Presidential Campaign Activities' request that Mr. Dean's appearance before the subcommittee be delayed.

The subcommittee also concurred in the subpoena of Mr. E. Howard Hunt, Mr. Gordon Liddy, Mr. James McCord, Jr. and Mr. Huston, and Mr. Egil Krogh.

Members Present: Mr. Nedzi, chairman; Mr. Hébert, Mr. Price, Mr. Bray, Mr. Arends, and Mr. Bob Wilson.

At approximately 10:35 a.m. the subcommittee began receiving testimony from the following witness on the Watergate-CIA matter: Mr. John D. Ehrlichman, former White House staff member.

The subcommittee recessed at 3:50 p.m. to meet at the call of the Chair.

WILLIAM H. HOGAN, Jr.
Assistant Counsel.

Mr. NEDZI. The Chair will not pretend to indicate to those in the subcommittee room that he fully understands all the legal niceties presented by counsel. It is the Chair's judgment that counsel's brief is extremely profound and presents a novel legal argument with which the Chair is not familiar.

It is the subcommittee's contention that this proceeding is not a trial, that the witness before us is not a defendant, and that proper questions can be raised as to the appropriateness of the analogies drawn in the historical recitations presented by counsel.

The subcommittee takes the position that Congress in the exercise of its authority has a longstanding right, recognized by the courts of the United States, to compel testimony before it.

Similarly, the subcommittee recognizes that witnesses before congressional investigating committees or subcommittees have a longstanding right to invoke the privileges of the fifth amendment; and if the witness elects not to disclose any information to us, we recognize that if in fact his testimony might lend to incriminate him, he is privileged to assert the privileges of the fifth amendment.

However, the subcommittee takes the position that the proceedings to this point have been proper and in accordance with the law, and wishes to state to counsel and to the witness that should he fail to take the oath, the subcommittee has no reasonable recourse but to proceed in accordance with the law as the subcommittee understands it, which, of course, includes a contempt proceeding through the House of Representatives, and all the consequences that flow therefrom.

At this point, we would like to incorporate also in our record the petition for writ of habeas corpus made to the U.S. District Court for the District of Columbia, and a copy of the order issued by the U.S. district judge.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

In Re: Hearings of the Special Subcommittee on Intelligence, Committee on Armed Services, House of Representatives; Misc. No. 94-73.

PETITION FOR WRIT OF HABEAS CORPUS AD TESTIFICANDUM

The Special Subcommittee on Intelligence, Committee on Armed Services, House of Representatives, by its Chairman, respectfully represents to the Court as follows:

(1) One George Gordon Liddy is a necessary witness at hearings before said Subcommittee.

(2) The said George Gordon Liddy is currently in the custody of the United States Marshal, District of Columbia, and the Superintendent, District of Columbia Jail.

Wherefore, the petitioner moves that this Court issue a Writ of Habeas Corpus Ad Testificandum, directed to the United States Marshal, District of Columbia; and the Superintendent, District of Columbia Jail, ordering the release of the said George Gordon Liddy into the custody of the said United States Marshal for the District of Columbia, or into the custody of one of his

authorized deputies, to testify before the Intelligence Subcommittee relative to the above-captioned matter.

LUCIEN N. NEDZI,
Chairman, Special Subcommittee on Intelligence.

Let this Writ of Habeas Corpus Ad Testificandum issue as of this 16 day of July 1973.

JOHN J. SIRICA,
Chief Judge.

U.S. DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

In Re: Hearings of the Special Subcommittee on Intelligence, Committee on Armed Services, House of Representatives; Misc. No. 94-73.

To: United States Marshal, District of Columbia; Superintendent, District of Columbia Jail.

You are hereby commanded to produce the body of George Gordon Liddy, by you imprisoned and detained, on Friday, July 20, 1973, at 10:00 a.m., under safe and secure conduct before the Special Subcommittee on Intelligence, Committee on Armed Services, House of Representatives, Room 2337 Rayburn Office Building, Washington, D.C., for the purpose of giving testimony before said Subcommittee, and after said prisoner shall have given his testimony on the above matter, that he be returned by the said United States Marshal for the District of Columbia, or one of his deputies to the custody from whence he came.

Witness the Honorable Chief Judge of said Court on 16th day of July, 1973.

JAMES F. DAVEY, *Clerk,*
By: JAMES P. CAPITANIO,
Deputy Clerk.

Mr. MAROULIS. Mr. Chairman, if I may I would ask that my letter of June 20, 1973, addressed to W. H. Hogan, counsel to the House Armed Services Committee, also be made part of the record.

Mr. NEDZI. Would you care to read the letter?

Mr. MAROULIS. I would be happy to provide a copy. I will read it, also, if you would like, sir.

Mr. NEDZI. Please read it, so the subcommittee has an indication of what is in it.

Mr. MAROULIS. It is dated June 20, 1973, addressed to W. H. Hogan, counsel, Committee on Armed Services, 2120 Rayburn Building, Washington, D.C. 20515.

"Re Special Intelligence Committee hearings into alleged CIA-Watergate matter.

"Dear Mr. Hogan:

"I am writing on behalf of my client, G. Gordon Liddy, to request the Special Intelligence Subcommittee to defer further proceedings into the alleged CIA-Watergate matter. The committee is presently holding hearings at which I am told Mr. Liddy is to be called as a witness, notwithstanding that he is a defendant in a criminal case on appeal, a defendant in a pending civil case, and a target witness of a grand jury reconvened to investigate further alleged criminal activities, all of which are the subject of your hearings.

"Presumably testimony is being given at the hearings by witnesses who have been called in the civil case, the criminal case and before the grand jury. Those witnesses will be called at a trial subsequent to forthcoming indictments and at a retrial,

should Mr. Liddy's conviction be reversed.

"It is my judgment that the record on appeal contains several errors of constitutional dimension which will require reversal. In view of the great public interest engendered in the Watergate matter by media coverage and the national television broadcasting of the Senate Select Committee hearings, where in this country are unbiased juries for these trials to be found?

"It is my contention that additional investigation and publicity by the subcommittee at this time further deprives Mr. Liddy of his fifth amendment rights not to answer to a criminal charge except on indictment, not to be compelled to give evidence against himself and to enjoy due process, and his sixth amendment rights to a fair trial and an impartial jury.

"I have informed you that my client will, on advice of counsel, invoke his fifth amendment rights, if called to testify. I, therefore, request that Mr. Liddy not be required to appear before the subcommittee. I believe such an appearance would result in additional publicity prejudicial to my client's constitutional rights (*Delaney v. United States* 199 Federal second 107, first circuit 1952).

"Very truly yours,

"PETER L. MAROULIS."

Mr. Chairman, I would also add one more item to what I have said. In the past few days it appears that there have been several witnesses before this subcommittee. I understand that Mr. Krogh is alleged by the newspaper accounts to have come before this committee and pleaded the fifth amendment some 50 times. The witness who followed Mr. Krogh, whose name escapes me at the moment—Mr. Young, as I am informed by my client—is alleged, according to the press, to have invoked the fifth amendment 40 times.

This morning I heard on the radio that Mr. Dean is alleged to have invoked the fifth amendment 67 times.

This is the very type of publicity that I am seeking to avoid on behalf of my client, to preserve his sixth amendment rights, in addition to the argument that I made on behalf of his fifth amendment rights.

Mr. NEDZI. The letter which you read to the subcommittee is dated today, is it not?

Mr. MAROULIS. No, sir. It is dated June 20, 1973.

Mr. NEDZI. June 20?

Mr. MAROULIS. Yes, sir.

Mr. NEDZI. Mr. Maroulis, you having given the subcommittee the benefit of your judgment of the law, it is, as I stated earlier, the opinion of the Chair that the Chair is not qualified at this time to issue any legal rulings on the very technical, and indeed profound, legal argument which you have made.

But the Chair will overrule your arguments and proceed with the hearing, with the admonition that you as counsel, and the witness, Mr. Liddy, should be prepared to suffer whatever consequences flow from this kind of position.

Let the record show that at the time the hearing was convened—present as subcommittee members were Mr. Hébert, Mr. Bray, Mr. Price, Mr. Arends, and the chairman of the subcommittee, a quorum.

Mr. HOGAN. And may I suggest, Mr. Chairman, at the present time?

Mr. NEDZI. And present throughout the proceedings to this point. That is right.

[Also present were Mr. Slatinshek and Mr. Hogan, counsel to the committee.]

Mr. NEDZI. Mr. Liddy, will you please rise and take the oath?

Do you solemnly swear that the testimony you are about to give in this hearing be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LIDDY. Mr. Chairman, I hope you personally, and each of the members of this subcommittee and the members of the Congress, would not take it as in any way a manifestation of disrespect of any of you personally or of this body, for me to rely upon the advice of my counsel. And in reliance upon the advice of my counsel which has just been articulated to you, with all due respect I decline to take the oath as a witness.

Mr. NEDZI. Mr. Chairman, do you have any statement to make?

Mr. HÉBERT. The one emphasis I would make, Mr. Chairman, is the one which you have already made: Mr. Liddy is not on trial here, with deference to counsel's representation in his letter of June 20 in reference to a trial prejudicial to his client.

I well understand counsel's eagerness to protect a client. This is not a trial. We do not intend, nor have we the responsibility, to find anybody either guilty or innocent.

We are proceeding under the legislative fiat of finding out facts in order to propose or not propose future legislation as relates to the Central Intelligence Agency. Our concern and responsibility is limited to only the Central Intelligence Agency, not to any other matters. It is our duty and our responsibility to establish that.

But this is not a trial, in any sense of that word. It is a legislative inquiry directed by the Congress of the United States, under law.

I think Mr. Liddy, as well as his lawyer, should be advised, too, that there is precedent for an individual refusing to take an oath before a subcommittee of the Congress, and the courts, as I understand it—I am not a lawyer, Mr. Nedzi is—have upheld the right of the subcommittee to ask the witness to take an oath under these conditions.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. The counsel's statement was very interesting. It brought up many things in which I am interested. But I would have to agree with the chairman that, in my opinion, it does not apply to the matter of taking of the oath.

I believe taking the oath does not affect in any way the rights of the defendant to later invoke the fifth amendment to any and all questions asked.

Mr. NEDZI. Mr. Price.

Mr. PRICE. Mr. Chairman, I, of course, am not a member of the legal profession. I have had experience in court-work, as a newspaperman

years ago, and through my years of service in the Congress.

I do not see how taking of the oath would itself cause any problem to the witness. We do not deprive him of the right to invoke the fifth amendment following taking of the oath, if he so chooses to do.

As a nonlawyer, I think it might compound the witness' problem, just by the mere failure of taking the oath, because of the responsibility of this subcommittee to follow precedents already set by congressional committees.

I would think if I were in counsel's place I would advise my client to take the oath, and then proceed in any way he chooses, as a witness. Certainly we would not expect him to make any statements or give any responses that he or the counsel himself felt would in any way incriminate him, further incriminate him.

Mr. NEDZI. Mr. Arends.

Mr. ARENDS. I have no comments.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. I have one question I would like to direct to Mr. Liddy.

I presume your basis for refusal to take the oath is predicated entirely on the arguments presented by your counsel?

Mr. LIDDY. That is correct, sir. I am relying on the advice of counsel in the position I am taking here.

Mr. SLATINSHEK. Your position is based entirely on his argument presented today?

Mr. LIDDY. I adopt his argument. Yes, sir.

Mr. SLATINSHEK. You are not refusing to take the oath for religious grounds or for any other reason?

Mr. LIDDY. That is correct, sir.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman. I would like to direct a question or two to counsel.

Counsel, do you have any citations, in State or Federal courts, supporting your position on the oath?

Mr. MAROULIS. Not beyond what I have stated. I have not come across any.

Mr. HOGAN. Do you have a citation from a U.S. State or Federal court, even though it is repetition, do you have a citation supporting your position that your client is protected against taking an oath?

Mr. MAROULIS. Not beyond what I have stated. I do not mean to duck your question, Mr. Hogan.

Mr. HOGAN. If it is a U.S. State or Federal court, would you restate the citation that protects your client from taking an oath before this subcommittee?

Mr. MAROULIS. I would say this, sir, that I have cited whatever authority I have. I have drawn some analogies, also, with the District of Columbia circuit cases that I cited.

I believe I cited *Frank v. United States* and *Jones v. United States*.

Mr. HOGAN. Do *Frank v. United States* and *Jones v. United States* go to protect your client from taking an oath before this subcommittee?

Mr. MAROULIS. Excuse me, sir.

[Mr. Maroulis and Mr. Liddy confer.]

Mr. NEDZI. Off the record.

Mr. MAROULIS. Mr. Hogan, with regard to those particular cases to which you just referred, both *Frank* and *Jones*, they deal with court. The analogy that I am drawing from those cases is that pending an appeal, that a man cannot be compelled to appear before a body, namely, a grand jury, which occurred in those cases, because he has an absolute right not to take the stand at his own trial. And I would argue by analogy that the same thing applies before a legislative committee.

Mr. NEDZI. The Chair will state that he has some views on the subject, but under the circumstances does not feel that it is necessary for the legal arguments to be gone into in depth at this time.

The position of the subcommittee is that it is proceeding in accordance with the law, the statutes, the rules of the House of Representatives, and that the witness' refusal to take the oath at this time is a violation of law, and at an appropriate time the subcommittee will take whatever action it deems necessary.

Mr. Maroulis, as a final word, do you insist on your position with respect to your client taking the oath, as described by you in the hearing this morning?

Mr. MAROULIS. Mr. Chairman, that is the advice that I feel in good conscience I must give my client, after a research of the law and the authorities that I have presented to you; and that is the advice that I have given him.

Mr. SLATINSHEK. Mr. Chairman.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. May I ask one question of counsel?

I gather you do not challenge the legislative purpose of the subcommittee, or the legislative objectives?

Mr. MAROULIS. I have not, I must say in candor, read the resolution. I really don't know. Thus far I have not raised that point.

Mr. SLATINSHEK. You recognize, as a number of members have stated, as well as the chairman, that the purpose of this hearing is to ascertain whether or not legislative action should be taken by the Congress in respect to the CIA, the Central Intelligence Agency? And in order to make a judgment on that this committee is forced to inquire into the alleged involvement of the CIA into matters extending to the Watergate. As a consequence, this committee has received testimony from numerous witnesses who at one time or another have mentioned Mr. Liddy's name.

It is a necessary function of this committee, it is necessary for the record, to examine Mr. Liddy in respect to the CIA involvement in the Watergate. And this is the purpose of this particular hearing. This is why Mr. Liddy was called before this subcommittee.

I wanted counsel to understand that, since his argument seemed predicated on the premise that in some manner this was a trial. It is not a trial.

Mr. MAROULIS. I did not intend that—I did not intend to be understood in that fashion.

What I am concerned about is that my client is under indictment, has been convicted, has an appeal pending, and may have a retrial. He may also be the subject of separate and additional indictments and

separate and different trials. And I am protecting his fifth and sixth amendment rights in those proceedings.

That is why I raise those arguments before this committee, because I can perceive that by taking the action that is requested by this committee my client would be abridging his fifth and sixth amendment rights. This is my understanding based upon the entire memorandum that I read to you and my research and understanding of those materials.

I feel that in good conscience I must so advise my client. I have advised him of that, and he has elected to follow my advice.

Mr. NEDZI. Is there any further statement either of you wishes to make for the record?

Mr. MAROULIS. May I confer with my client a moment?

Mr. NEDZI. Yes.

Mr. HOGAN. Mr. Chairman, may I have permission to attach to the record any other documents pertaining to the appointment of this subcommittee?

Mr. NEDZI. That permission is granted.

Mr. LIDDY. Mr. Chairman, with your permission I would like to make one point:

One of the gentlemen who is a member of the subcommittee in speaking to Mr. Maroulis asked him if he "insisted"—I believe was the word used by the member—on my taking the position I am taking.

I should like to make it clear that Mr. Maroulis as my counsel is advising me. He has not insisted that I accept his advice. My actions here this morning are done on Mr. Maroulis' advice but upon my responsibility.

Inasmuch as I detected in the language of the chairman the possibility of consideration by this body of punitive action. I should like to point out that any such punitive action should properly be directed toward me and not toward my client—I beg your pardon—my counsel. I am afraid I am lapsing back to the old days.

Second, I would like to say with respect to the argument on my behalf made by counsel—very articulately, in my judgment—I rely on it as a whole, and on no portion of it more or less than any other portion of it.

Thank you, Mr. Chairman. I appreciate the courtesy.

Mr. NEDZI. The Chair will state that he regrets very much any misunderstanding which may have flowed from his use of the word "insist," and the suggestion of punitive action.

Certainly he had no intention of suggesting that Mr. Maroulis was insisting on any particular defense to someone who himself is trained in the law, nor that he should be punished for asserting a very sophisticated, novel and, as I said, a profound, legal argument.

At any rate, it is the judgment of the Chair that the record is clear as to the respective positions of the witness, his counsel, and the members of the subcommittee.

At this point the Chair will excuse the witness, with the understanding that we reserve the right to pursue whatever legal steps we deem appropriate.

Mr. LIDDY. Mr. Chairman, I understand that. I appreciate it. And I would like just to thank the Chair and every member of this subcommittee for the number of courtesies which have been extended to me and to my counsel in connection with my appearance before this body today. I am grateful to you all, sir. Thank you.

Mr. HÉBERT. I would like the record to show one thing. We are making a record to be used in the future. I am sure you did not mean by use of the word "punitive," in my appreciation of the word "punitive," that we would take punitive action. We will only take action under the law, which I do not consider "punitive" in the definition of the word.

It is a loose word. I don't like it hanging that we are going to take punitive action against anybody.

Mr. LIDDY. Mr. Congressman, I think you have articulated the fact that all language is subject to construction, and reasonable men can differ.

Mr. HÉBERT. I just wanted to get this side in.

Mr. LIDDY. I understand, sir. I appreciate your concern.

Thank you very much, sir.

Mr. NEDZI. Mr. Price.

Mr. PRICE. I wonder if the counsel could explain to me as simply as possible why he feels that the mere taking of the oath, leaving aside all the other constitutional prerogatives the witness can follow, without any pressure of the subcommittee to try to force him to go beyond his constitutional privileges, leaving those aside, why that would be incriminatory.

Mr. MAROULIS. Mr. Price, in an abundance of caution I will preface my answer by stating that my position is based on the entire memorandum that I read to the subcommittee. But in an effort to focus some attention to some of the underlying cases for the position that I have recommended to my client, the basic item is that at a criminal trial my client would have the absolute right not to take the stand.

It is apparent to me that he faces criminal trials; not before this tribunal, certainly, not before this committee. But that day has come for him, and I believe it will come again.

If the fifth amendment to the Constitution gives him the right not to take the stand at a trial, then according to my reasoning, and based on the historical precedents that I have set forth, I believe he also has the right, as long as he stands in that posture, to refuse to take the oath before any duly constituted committee or tribunal.

The second portion of my concern is based upon the publicity that other witnesses before this particular subcommittee have received, namely, they allegedly have invoked the fifth amendment, and it has been reported to the press. That is the type of item that I feel can be very damaging to my client in terms of his ability to have a fair trial at a subsequent date, either on the indictment for which he has been convicted and on which he presently has an appeal, or upon indictments which may come down from the grand juries that are presently investigating this case.

I hope that helps.

Mr. PRICE. If he were not in the posture that he is in, would you then, would you still suggest that he not take the oath?

Mr. MAROULIS. No, my position at that point would be different. I have only, of course, considered his position and my advice to him based upon the posture that he finds himself in.

Mr. PRICE. In other words, your thinking is that the mere taking of the oath puts him on the stand, and until he takes that oath he is actually not on the stand?

Mr. LIDDY. Excuse me, Mr. Price.

[Mr. Liddy and Mr. Maroulis confer.]

Mr. MAROULIS. Mr. Price, it may be that if he were in different circumstances my advice would be different.

Again, just in an abundance of caution, since it is apparent to me that we are making a record for review, I am reluctant to give you a definitive answer on that, because I have not researched it. But certainly if his position were different it would affect the application of this historical precedent in law as I perceive it.

I believe that if he were not subject to indictment, if he were not presently under indictment, on appeal, or subject to further indictments, my advice might well be different, yes, sir.

Mr. PRICE. I have listened intently, and I enjoyed your historical review of the background for the later adoption of the fifth amendment. But I do not really read into it any prohibition against the administration of the oath.

Mr. MAROULIS. Mr. Price, again addressing myself to that inquiry, I can only state that if we could remove ourselves from this room and put ourselves into a courtroom my client then, I believe all would recognize and agree, has an absolute right not to even be called to give his name.

Now, I am not suggesting that that should be the case before other tribunals.

Mr. NEDZI. Yes, you are.

Mr. MAROULIS. I mean to the point of not even giving his name. I am not thinking in terms of not frivolously invoking a fifth amendment right when in fact a person is properly and lawfully required to give testimony and he then elects not to answer questions.

Mr. NEDZI. But you are electing to have him not give any testimony before this subcommittee.

Mr. MAROULIS. No, sir. I am electing—I am advising him that he may be curtailing his fifth amendment right as it would apply at some subsequent date before a court. And I have advised him that by taking the oath he then might be curtailing a right which he presently has and has up until this point protected.

Mr. NEDZI. The Chair appreciates your argument, but disagrees, respectfully.

Mr. ARENDS. Mr. Chairman, may I ask one question?

Mr. NEDZI. Mr. Arends.

Mr. ARENDS. I am not a lawyer, Mr. Maroulis; but putting this in the parlance of the street, is this a case that you feel should the witness be sworn he is giving up a right, period?

Mr. MAROULIS. Under these circumstances, yes, sir.

Mr. LIDDY. Excuse me, Mr. Chairman.

[Mr. Liddy and Mr. Maroulis confer.]

Mr. LIDDY. Mr. Chairman, if I may, with your indulgence, for the purpose of the record, advise you that the election is mine rather than that of my counsel, that I have relied upon his advice, that advice being that which was articulated to you in his preliminary statement before you and in response to the inquiry by Congressman Price.

Certainly my choice of action before this subcommittee this morning is based upon a combination of the facts, and all of the facts, as I understand them to be, and the law as given to me in his advice by my counsel, Mr. Maroulis.

Certainly as a reasonable man, sir, should the facts in the future change I would, of course, review the new facts. I would, of course, review whatever different—if there is different—legal advice might be provided by my counsel. And I might change, or I might not change, my position. That is a judgment that I have not made, with which I am not as yet faced. When and if I ever am, I shall make whatever decision I believe to be appropriate at that time.

Thank you, sir.

Mr. NEDZI. Mr. Arends?

Mr. ARENDS. Nothing further.

Mr. NEDZI. Are there any further questions?

Mr. HOGAN. Just one.

Let the record show, Mr. Chairman, that the House resolution and the documents appointing this subcommittee to its work are available to counsel here during this session, in the event he cares to look at them; because he said he was not aware of those documents.

We have them here for your perusal, Mr. Maroulis and Mr. Liddy, if you care to look at them.

Mr. MAROULIS. Thank you. I would like to receive a copy.

Mr. NEDZI. The Chair at this time will excuse counsel and the witness, and we will proceed with the executive session.

[Counsel Maroulis and Mr. Liddy left the room.]

The Chair will observe that throughout the entire proceeding a quorum was present, and that the subcommittee has reaffirmed its earlier decision to hold the hearing in executive session, with unanimous consent.

[Discussion off the record.]

Mr. NEDZI. On the record.

Mr. HÉBERT. I will make the motion that Mr. Liddy be cited for contempt.

Mr. NEDZI. Mr. Hébert moves that the subcommittee take all necessary action for the House of Representatives to cite the witness, G. Gordon Liddy, for contempt of the subcommittee.

All those in favor signify by saying "Aye."

[Calls of "Aye."]

Mr. NEDZI. Those opposed, "No."

[No response.]

Mr. NEDZI. Let the record show that all members present voted in favor of the motion. [Mr. Nedzi, Mr. Hébert, Mr. Bray, Mr. Price, Mr. Arends.]

The subcommittee will stand in recess until further call of the Chair.

[Whereupon, at 11:40 a.m., the subcommittee recessed, to reconvene at the call of the Chair.]

APPENDIX 2

MINUTES—COMMITTEE ON ARMED SERVICES, HOUSE OF
REPRESENTATIVES

MEETING NO. 43, JULY 26, 1973

The full committee met in open session in the Carl Vinson Room, at 10:22 a.m., to consider the report of the Intelligence Subcommittee with regard to the failure and refusal of G. Gordon Liddy to be sworn or to take affirmation to testify at the meeting of the subcommittee on Friday, July 20, in connection with the subcommittee's inquiry into the alleged CIA-Watergate-Ellsberg matters, the following members of the committee and staff being present:

Mr. Hébert, Chairman	Mr. White
Mr. Bray	Mr. Treen
Mr. Bob Wilson	Mr. Nichols
Mr. Bennett	Mr. Armstrong
Mr. Stratton	Mr. Brinkley
Mr. Pike	Mr. O'Brien
Mr. Dickinson	Mr. Molloyhan
Mr. Ichord	Mr. Beard
Mr. Hunt	Mr. Dan Daniel
Mr. Nedzi	Mr. Mitchell
Mr. Whitehurst	Mr. Montgomery
Mr. Randall	Mrs. Holt
Mr. Young	Mr. Runnels
Mr. Charles Wilson	Mr. Bob Daniel
Mr. Spence	Mr. Aspin
Mr. Leggett	Mr. Dellums
Mr. Powell	Mr. Davis
Mr. Hicks	Mrs. Schroeder
Mr. Robert Price	

Members absent:

Mr. Arends	Mr. Gubser
Mr. Melvin Price	Mr. King
Mr. Fisher	Mr. Jones

Staff members present: Mr. Slatinshek, chief counsel; Mr. Morgan, professional staff member; Mr. Cook, counsel; Mr. Ford, professional staff member; Mr. Marshall, professional staff member; Mr. Norris, counsel; Mr. Shumate, counsel; Mr. Hogan, counsel; Mr. Cantus, professional staff member; Mr. Reddan, counsel, Armed Services Investigating Subcommittee; Mr. Ransom, professional staff member, Armed Services Investigating Subcommittee; Mrs. Stockstill, executive secretary; Mr. Short, clerical staff assistant.

The chairman made opening remarks stating that the purpose of the meeting was to consider the report of the Intelligence Subcommittee with regard to the failure and refusal of G. Gordon Liddy to be sworn or to take affirmation to testify at the meeting of the Intelligence Subcommittee on Friday, July 20, 1973, in connection with the subcommittee's inquiry into the alleged CIA-Watergate-Ellsberg matters.

The chairman recognized Mr. Nedzi, Chairman of the Intelligence Subcommittee to submit his report, in behalf of the Subcommittee,

on Mr. Liddy's appearance before the subcommittee on July 20. Mr. Nedzi read a prepared statement and invited the attention of the members of the committee to the transcript of the subcommittee's proceedings on July 20, which was before each Member. At the conclusion of the reading of his statement, Mr. Nedzi read the resolution he proposed to bring before the House of Representatives citing Mr. Liddy for contempt of the Congress.

Considerable discussion ensued by members and counsel. During the course of the discussion, Mr. Treen offered a motion that action be postponed on the resolution proposed by Mr. Nedzi until a date next week to be designated by the Chairman, thereby giving the Members more time to examine pertinent facts bearing on the resolution. Following discussion of the motion, Mr. Treen stated it would be acceptable to him to amend his motion by postponing further consideration of the resolution until 2:00 p.m. today. This proposal was objected to by Mr. Bob Wilson.

Mr. Randall then moved the previous question, which was consideration of Mr. Treen's motion to postpone action on the proposed resolution until a time to be decided by the Chairman. The motion was agreed to by a show of hands vote of 23 Yeas and 9 Nays.

The committee recessed at 11:39 a.m., subject to the call of the Chair.

During the meeting the committee was recessed from 10:45 a.m. until 10:59 a.m. in order that the members could respond to a quorum call.

FRANK M. SLATINSHEK,
Chief Counsel.

MINUTES—COMMITTEE ON ARMED SERVICES, HOUSE OF REPRESENTATIVES

MEETING NO. 44, JULY 31, 1973

The full committee met in open session, in the Carl Vinson Room, at 10:13 a.m., to resume consideration of the report of the Intelligence Subcommittee with regard to the failure and refusal of G. Gordon Liddy to be sworn or to take affirmation to testify at the meeting of the Subcommittee on Friday, July 20, in connection with the subcommittee's inquiry into the alleged CIA-Watergate-Ellsberg matters, the following members of the committee and staff being present:

Mr. Hébert, Chairman	Mr. White
Mr. Bray	Mr. Treen
Mr. Arends	Mr. Nichols
Mr. Bob Wilson	Mr. Armstrong
Mr. Stratton	Mr. Brinkley
Mr. King	Mr. O'Brien
Mr. Pike	Mr. Mollohan
Mr. Dickinson	Mr. Beard
Mr. Hunt	Mr. Dan Daniel
Mr. Nedzi	Mr. Montgomery
Mr. Whitehurst	Mr. Bob Daniel
Mr. Young	Mr. Davis
Mr. Charles Wilson	Mr. Jones
Mr. Spence	Mrs. Schroeder
Mr. Robert Price	

Members absent:

Mr. Melvin Price
Mr. Fisher
Mr. Bennett
Mr. Gubser
Mr. Ichord
Mr. Randall
Mr. Leggett

Mr. Powell
Mr. Hicks
Mr. Mitchell
Mrs. Holt
Mr. Runnels
Mr. Aspin
Mr. Dellums

Staff members present: Mr. Slatinshek, chief counsel; Mr. Hogan, counsel; Mr. Shumate, counsel; Mr. Marshall, professional staff member; Mr. Norris, counsel; Mrs. Stockstill, executive secretary; Mr. Short, clerical staff assistant.

The Chairman made a brief opening statement setting forth the purpose of the meeting.

The Chairman recognized Mr. Treen, who made a statement regarding his study of the action recommended by the Intelligence Subcommittee.

The Chairman recognized Mr. Nedzi, who renewed his motion that the committee approve his proposal to bring before the House of Representatives a resolution citing Mr. G. Gordon Liddy for contempt of the Congress. The Chairman asked Mr. Hogan, counsel, to read the proposed resolution.

Mr. Pike moved the previous question, which motion was approved by a voice vote.

The Chairman ordered a roll call vote on Mr. Nedzi's proposal. The results of the roll call vote follow:

YEAS—33

Mr. Hébert	Mr. Robert Price
Mr. Bray	Mr. White
Mr. Melvin Price (proxy)	Mr. Treen
Mr. Arends	Mr. Nichols
Mr. Fisher (proxy)	Mr. Armstrong
Mr. Bob Wilson	Mr. Brinkley
Mr. Stratton	Mr. O'Brien
Mr. King	Mr. Mollohan
Mr. Pike	Mr. Beard
Mr. Dickinson	Mr. Dan Daniel
Mr. Hunt	Mr. Montgomery
Mr. Nedzi	Mr. Bob Daniel
Mr. Whitehurst	Mr. Dellums (proxy)
Mr. Young	Mr. Davis
Mr. Charles Wilson	Mr. Jones
Mr. Spence	Mrs. Schroeder
Mr. Leggett (proxy)	

NAYS—0

There being 33 Yeas and no Nays, Mr. Nedzi's proposal to bring a resolution before the House of Representatives citing Mr. G. Gordon Liddy for contempt of the Congress was approved.

The committee recessed at 10:22 a.m., subject to the call of the Chair.

FRANK M. SLATINSHEK,
Chief Counsel.

APPENDIX 3

LEGAL MEMORANDUM RE REFUSAL OF GEORGE GORDON LIDDY TO BE SWORN AS A WITNESS BEFORE THE SPECIAL SUBCOMMITTEE ON INTELLIGENCE, JULY 20, 1973

On Friday, July 20, 1973, during an executive session of the Special Subcommittee on Intelligence, Mr. George Gordon Liddy, who was duly called as a witness pursuant to a Writ of Habeas Corpus, refused to be sworn prior to offering any testimony or claiming his privilege under the Fifth Amendment. A quorum being present, the subcommittee voted to report the matter to the full committee with a recommendation for reference to the House of Representatives under procedures which could ultimately result in Mr. Liddy being cited for contempt of Congress.

In his appearance before the subcommittee on July 20th Mr. Liddy and counsel, through an extensive brief and exchange with the members of the subcommittee, claimed in essence that the Fifth Amendment incorporates the right of a witness before a congressional subcommittee not to take the stand and therefore not to be sworn. In sum, Mr. Liddy claimed he had the absolute right under the Fifth Amendment to remain completely silent with regard to any offering before the subcommittee. He sought to reinforce his position based on his current conviction on the Watergate breakin which is under appeal, and the possibility of future indictments being brought against him. He further argued a Sixth Amendment right to avoid what he claims would be prejudicial publicity in the media should he claim his Fifth Amendment rights.

The bulk of the witness' brief is an extended historical survey of the development of the accusatorial system, the privilege against self-incrimination, and related matters. It is established, without any necessity for an historical treatment, that a defendant in a criminal case may not be compelled to give evidence against himself and indeed that he may not be called to the stand and made to take the oath at all if he chooses. With regard to compelling the appearance of the subject of an investigation, a possible future defendant, or an already indicted defendant before a grand jury, the rule varies in federal and state courts. The federal courts have generally refused to hold that the subject of the investigation, a prospective defendant, may decline to appear but they have indicated that there may be limits with respect to who may be called and under what circumstances the inquiry may proceed. Note, "The Rights of a Witness Before a Grand Jury," 1967 *Duke L. J.* 97, 105 nn. 31, 32. In support of his position, Mr. Liddy quoted, *inter alia*, from *Jones v. United States*, 342 F. 2d 863, 868 purporting to state the rule in the District of Columbia:

At a trial, putting the accused on the witness stand without his consent and asking him anything at all would violate his constitutional privilege against self-incrimination. We think taking him before the grand jury without his consent and asking him anything violates his privilege.

That was not concurred in by a majority of the Court and was therefore *not* a holding. *Id.*, at 864. [Emphasis added.]

Whatever the rule prevailing with regard to grand juries, there is no support in the decided cases for any proposition that a defendant—

prospective, past, or present—may decline to appear or refuse to take the oath before a congressional committee and Mr. Liddy does not offer a single citation to the contrary. A witness may of course assert his privilege against self-incrimination in regard to questions asked of him but he may not refuse to take the witness chair at all. The reason plainly is that a *congressional committee is not a court, it has no power to try, convict, and sentence one*, and its function is to carry on inquiries to determine the necessity for legislation and to review the implementation of legislation that has been enacted.

McGrain v. Daugherty, 273 U.S. 135 (1927), and the other prevailing case law, clearly establishes that a committee of one House of Congress may compel a private individual to appear before it and to give testimony provided that the inquiry is part of an exercise of the legislative function conveyed to Congress by the Constitution and that the process is being employed to obtain testimony for that purpose. The power of inquiry, the Court said, is “a necessary and appropriate attribute of the power to legislate” and is in fact to be treated “as inhering in it” for purposes of legislating and oversight with regard to enacted laws.

In the case at hand Mr. Liddy, who is in confinement, was properly before the subcommittee pursuant to a valid Writ of Habeas Corpus Ad Testificandum issued by Chief Judge John J. Sirica of the United States District Court for the District of Columbia on July 16, 1973. See *Gilmore v. United States*, 129 Fed. 2nd 199, (1942). The authority and legislative purpose of the subcommittee has been established. H. Res. 185, 93d Congress; organization meeting of the House Committee on Armed Services, 93d Congress, February 27, 1973.

Title 2, United States Code Sections 192 and 194 as follows:

Sec. 192. Refusal of witness to testify or produce papers

Every person who having been summoned as a witness by the authority of either House of Congress to give testimony or to produce papers upon any matter under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee of either House of Congress, willfully makes default, or who, having appeared, refuses to answer any questions pertinent to the question under inquiry, shall be deemed guilty of a misdemeanor, punishable by a fine of not more than \$1,000 nor less than \$100 and imprisonment in a common jail for not less than one month nor more than twelve months. As amended June 22, 1938, c. 594, 52 Stat. 942.

Sec. 194. Certification of failure to testify; grand jury action failing to testify or produce records

Whenever a witness summoned as mentioned in section 192 fails to appear to testify or fails to produce any books, papers, records, or documents, as required, or whenever any witness so summoned refuses to answer any question pertinent to the subject under inquiry before either House, or any joint committee established by a joint or concurrent resolution of the two Houses of Congress, or any committee or subcommittee of either House of Congress, and the fact of such failure or failures is reported to either House while Congress is in session, or when Congress is not in session, a statement of fact constituting such failure is reported to and filed with the President of the Senate or the Speaker of the House, it shall be the duty of the said President of the Senate or Speaker of the House, as the case may be, to certify, and he shall so certify, the statement of facts aforesaid under the seal of the Senate or House, as the case may be, to the appropriate United States attorney, whose duty it shall be to bring the matter before the grand jury for its action. As amended July 13, 1936, c. 884, 49 Stat. 2041; June 22, 1938, c. 594, 52 Stat. 942.

A refusal to take the oath and be sworn, it is established in the few cases dealing with this fact situation, constitutes under 2 U.S.C. Sec.

192 both a willful default and a refusal to answer. *Eisler v. United States*, 170 F. 2d 273, 279-281 (C.A.D.C. 1948); *United States v. Hintz*, 193 F. Supp. 325, 327-328 (D.C.N.D. Ill. 1961).¹

In *Eisler* it was held that a deliberate and intentional refusal to be sworn is sufficient to constitute a violation of 2 U.S.C. 192. Also, said the court in *Eisler*, having been summoned by lawful authority, the witness was bound to conform to the procedures of the committee.

In *Hintz* the court stated that the mere charge of refusing to be sworn violated the so-called second branch of the statute. There is no question more pertinent to a subject under investigation than whether the witness will answer truthfully.

Any witness, of course, has the constitutional right to invoke his privilege against self-incrimination and refuse to answer when indeed he would be incriminated. But he must appear, he must take the stand, he must be sworn, and he must assert the privilege as to each incriminating question which is asked of him. "If the Committee was to be at all effective in bringing to Congress' attention certain practices * * * which should be subject to federal prohibitions, it necessarily had to ask some witnesses questions which, if truthfully answered, might place them in jeopardy of state prosecution. Unless interrogation is met with a valid constitutional objection 'the scope of the power of (congressional) inquiry * * * is as penetrating and far-reaching as the potential power to enact and appropriate under the Constitution.' (Quoting *Barenblatt v. United States*, 360 U.S. 109, 111 (1960)). And it is not until the question is asked that the interrogator can know whether it will be answered or will be met with some constitutional objection. To deny the Committee the right to ask the question would be to turn an 'option of refusal' into a 'prohibition of inquiry' * * *" *Hutcheson v. United States*, 369 United States 599, 619.

Any suggestion that Congress cannot inquire into matters which were the subject of judicial proceedings necessarily applies to future judicial proceedings as well as pending. "If such were the reach of 'due process' it would turn a witness' privilege against self-incrimination into a self-operating restraint on congressional inquiry * * * and would in effect *pro tanto* obliterate the need for that constitutional protection." *Hutcheson v. United States*, (supra) 613 n. 16 (1962). See also, *Sinclair v. United States*, 279 United States 263 (1929). Accordingly, it appears that Mr. Liddy's position as a convicted defendant and a possible future defendant would not suffice to excuse his conduct at the hearing.

It is submitted that a justiciable case against Mr. Liddy under the provisions of 2 U.S.C. 192 has developed by virtue of his refusal to take an oath before a duly constituted subcommittee of the House with a duly established legislative purpose. Accordingly, the provisions of 2 U.S.C. 194 should be invoked for appropriate consideration within the processes established by law. Put another way, the Special Subcommittee is of the opinion that Mr. Liddy has been in contempt of Congress, and under the statutes, the issue of guilt or innocence should be resolved in the appropriate federal court.

¹ See also Proceedings Against Arnold S. Johnson, H. Rept. No. 91-1461; Committee On Internal Security Annual Report, 1972, H. Rept. No. 93-301.

[Reprinted from the Congressional Record (p. H7679, September 10, 1973)]

PROCEEDINGS AGAINST GEORGE GORDON LIDDY

Mr. NEDZI. Mr. Speaker, I rise to a question of the privilege of the House, and, by direction of the Committee on Armed Services, I submit a privileged report (H. Rept. No. 93-453).

The Clerk read as follows: * * * (See page 903.)

Mr. NEDZI (during the reading). Mr. Speaker, since this report has been distributed to the membership as a committee print over the weekend, I ask unanimous consent that the further reading of the report and the appendixes be dispensed with, and that it be printed in full in the Record with the appendixes.

The SPEAKER. Is there objection to the request of the gentleman from Michigan? There was no objection.

Mr. NEDZI. Mr. Speaker, by direction of the Committee on Armed Services, I offer a privileged resolution (H. Res. 536) and ask for its immediate consideration.

The Clerk read the resolution as follows:

HOUSE RESOLUTION 536

Resolved, That the Speaker of the House of Representatives certify the report of the Committee on Armed Services of the House of Representatives as to the refusal of George Gordon Liddy to be sworn or to take affirmation to testify before a duly authorized subcommittee of the said Committee on Armed Services on July 20, 1973, together with all the facts in connection therewith, under the seal of the House of Representatives, to the United States Attorney for the District of Columbia, to the end that the said George Gordon Liddy may be proceeded against in the manner and form provided by law.

The SPEAKER. The gentleman from Michigan (Mr. Nedzi) is recognized for 1 hour.

(Mr. Nedzi asked and was given permission to revise and extend his remarks.)

Mr. NEDZI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on Friday, July 20, 1973, during an executive session of the Special Subcommittee on Intelligence of which I am chairman, Mr. George Gordon Liddy, who was duly called as a witness pursuant to a writ of habeas corpus, refused to be sworn prior to offering any testimony or claiming his privileges under the fifth amendment. A quorum being present, the subcommittee voted to report the matter to the full committee with a recommendation for reference to the House of Representatives under procedures which could ultimately result in Mr. Liddy being cited for contempt of Congress. Since Mr. Liddy was in confinement in the District of Columbia Jail, as the result of his conviction on the Watergate break-in, the subcommittee petitioned Chief Judge John J. Sirica for a writ of habeas corpus ad testificandum as the only means of obtaining Mr. Liddy's presence before the subcommittee. In his discretion Judge Sirica signed that petition on July 16, 1973, and an order was delivered to the U.S. marshal for Liddy's presence before the subcommittee on July 20, 1973.

Mr. Speaker, the Special Subcommittee on Intelligence is a duly constituted subcommittee of the House Armed Services Committee pursuant to House Resolution 185, 93d Congress, and the appointment made during the organization meeting of the Committee on Armed Services on February 27, 1973. In addition, an order was given to me as chairman of the subcommittee directing that we conduct an inquiry regarding CIA involvement in Watergate-Ellsberg matters. The subcommittee commenced its hearings on May 11, 1973, and in 16 sessions since that date has had before it some 24 witnesses bearing on the subject of our inquiry. Although three witnesses before the subcommittee claimed their fifth amendment privilege throughout their appearance, Mr. Liddy was the sole witness who refused to be sworn.

In his appearance before the subcommittee on July 20, Mr. Liddy and counsel, through an extensive brief and exchange with the members of the subcommittee, claimed in essence that the fifth amendment incorporates the right of a witness before a congressional subcommittee not to take the stand and therefore not to be sworn. In sum, Mr. Liddy claimed he had the absolute right under the fifth amendment to remain completely silent with regard to any offering before the subcommittee. He further argued a sixth amendment right to avoid what he claims would be a prejudicial publicity in the media should he claim his fifth amendment rights.

All of the details concerning committee and subcommittee jurisdiction, the actual proceedings and committee actions on the case are contained in the committee print which was circulated to the House membership by letter dated August 29, 1973, and is presently before the House as a privileged report.

On July 26 and on July 31, 1973, the House Armed Services Committee met to consider the resolution before you today. After extensive discussion and consideration of the legal matters involved, the committee voted 33 to 0 to adopt the resolution.

Mr. Speaker, the position of the committee is that all substantive and procedural legal prerequisites have been satisfied for the hearing of Mr. Liddy as a witness and that the House should report a resolution which would refer the matter to the U.S. Attorney. Title 2, United States Code, sections 192 and 194 provide the necessary vehicles for taking this action. Section 192 provides the basis for indictment should a witness before either House of Congress refuse to answer any question pertinent to the inquiry. Section 194 provides the vehicle for certifying such a result to the appropriate U.S. Attorney. The central question is whether failure to take the oath constitutes a refusal to give testimony. We believe it does. Of course, the ultimate answer rests with the courts. While there may be merit to Mr. Liddy's argument as it pertains to testimony of a defendant in a court of law, we do not believe that it applies to a duly constituted congressional hearing without procedural deficiencies.

We have examined some of the basic case law on the subject and are of the opinion that we are in compliance with the basic substantive and procedural requirements in the onward reporting of the case. Accordingly, it is the position of the committee that the proceedings to date are in order and we recommend that the House approve going forward with a resolution that the Speaker certify to the U.S. Attorney the reports as to the refusal of George Gordon Liddy to be sworn to testify at a meeting of the Special Subcommittee on Intelligence on July 20, 1973, together with all the facts in connection therewith to the end that he may be proceeded against as provided by law.

(Mr. Arends asked and was given permission to revise and extend his remarks.)

Mr. ARENDS. Mr. Speaker, I rise in support of this Resolution and urge my Colleagues to do likewise.

It has been a long-time tradition well-supported in law that when witnesses called before congressional committees are required to be sworn prior to offering testimony it is their duty to rise and be sworn or make affirmation. Following that, it certainly is the right of every witness to claim the privilege against self-incrimination under the fifth amendment if, indeed, that be the case. However, the Congress and its committees has every right to put the question to the witness in our investigative and legislative functions. Then and only then should there be a decision as to whether a reply must be made. Certainly to condone a refusal to be sworn would stifle the entire congressional investigative process and that cannot be tolerated if we are to fulfill our legislative responsibilities. During the course of the subcommittee hearings, of which I am privileged to be a member, no other witness refused to be sworn although others did claim a privilege under the fifth amendment and in no case did the subcommittee question that right.

Although contempt proceedings could be conducted in the halls of Congress, the membership in their wisdom felt the better course was to refer all such cases to the appropriate U.S. Attorney for action after approval by the House concerned. That is what we ask you to do today in what I consider to be a clear cut violation of the statutory provision contained in section 192 of title 2, United States Code.

The integrity of the legislative process requires that we do nothing less than to pass this resolution. We believe Mr. Liddy should be cited for contempt of Congress for his failure to take the oath or make affirmation before a duly constituted subcommittee of the House Armed Services Committee, while in pursuit of a proper investigation of alleged Central Intelligence Agency involvement in the Watergate-Daniel Ellsberg matters.

Mr. NUNZI. Mr. Speaker, I yield to the gentleman from Iowa.

Mr. GROSS. Mr. Speaker, I believe that the gentleman stated that G. Gordon Liddy was the only one of numerous witnesses to be called before the subcommittee who refused to be sworn as a witness.

Mr. GROSS. Is that correct?

Mr. NEDZI. That is correct.

Mr. GROSS. Was he not the only person to come before the committee who had been indicted, tried, and convicted, and had a case on appeal in the courts? Was he not only witness in that status?

Mr. NEDZI. In the status which the gentleman describes, I believe he was. However, Mr. McCord was also found guilty, and Mr. Hunt was found guilty also. That is correct. So he was not the only one in that status.

Mr. GROSS. Did they have appeals pending?

Mr. NEDZI. My understanding is that they do have appeals pending.

Mr. GROSS. I am talking about the other two.

Mr. NEDZI. That is my understanding, yes.

Mr. GROSS. They were in the same status as Mr. Liddy?

Mr. NEDZI. With the exception of Mr. McCord who is not in confinement, as the gentleman knows, where as Mr. Liddy was.

Mr. HUNT. Mr. Speaker, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from New Jersey.

Mr. HUNT. I ask the distinguished chairman to clarify that statement that referred to "Mr. Hunt." I am a member of the Armed Services Committee and I want it distinctly understood the gentleman is not talking about me. Will the gentleman be so good as to do that?

Mr. NEDZI. I will be glad to. The Mr. Hunt to whom I refer is E. Howard Hunt of Watergate fame.

Mr. HUNT. I thank the gentleman.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Speaker, may I inquire, if we vote the citation, this gentleman is now doing time, is that correct?

Mr. NEDZI. That is correct.

Mr. HUNGATE. What is his sentence approximately? Is it 30 days or years?

Mr. NEDZI. It is years. I regret I cannot give the gentleman a specific answer.

Mr. HUNGATE. What would be the remedy if he were ordered found in contempt and still declined to answer?

Mr. NEDZI. I assume the remedy would be to tack onto his sentence whatever the court would deem appropriate.

Mr. DRINAN. Mr. Speaker, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Massachusetts.

Mr. DRINAN. Mr. Speaker, I commend the gentleman for the excellent report he has issued but I raise this question. It is my understanding that some 2 weeks prior to the actual appearance of Mr. Liddy, the committee had in writing a letter from Mr. Liddy's lawyer indicating that Mr. Liddy would not in fact furnish any information and that he would take the fifth amendment, as would be his right. I wondered if the chairman of the subcommittee would answer what precise information or what areas were to be explored by the committee with Mr. Liddy when it was known ahead of time that Mr. Liddy would in fact invoke the fifth amendment.

Mr. NEDZI. My response to the gentleman in the first instance is that counsel for Mr. Liddy did not indicate he would not be sworn. He said Mr. Liddy would take the fifth amendment. Of course the intention of the committee in calling Mr. Liddy was an effort to endeavor to elicit such information as Mr. Liddy possessed with reference to the involvement of the CIA in the whole Watergate affair.

Mr. DRINAN. I wonder if the chairman could tell me this. Is there any precedent in the annals of the House for citing for contempt a person simply because he has refused to take the oath?

Mr. NEDZI. Yes, there is precedent. There is the case which goes back to 1947 involving Gerhardt Eisler, who refused to be sworn before the House Un-American Activities Committee at that time.

Mr. DRINAN. But in the Eisler case were there not other circumstances that are not present here, or rather, in the Liddy case there are circumstances present that were not present in the Eisler case.

Mr. Liddy is now in jail; he is being investigated by a grand jury; he is a defendant in a civil case, and he felt that this might tend to incriminate him?

Mr. NEDZI. There are certain differences of course. On the other hand in the Eisler matter he was also in confinement at the time that he appeared and

there were charges being pursued against him, so to that extent the two cases are very similar.

Mr. DRINAN. One further thing is not entirely clear to me from reading the documents. Mr. G. Gordon Liddy through his attorney said this would tend to defame him and degrade him and possibly incriminate him, but my understanding is that all this was in executive session, so how could his attorney say in fact that this would tend to implicate him since the proceeding would not be public?

Mr. NEDZI. Mr. Speaker, I cannot really respond to the gentleman's question. Mr. DRINAN. Could he feel, though, that the fact would emerge that Mr. G. Gordon Liddy had involved the fifth amendment and had thereby created prejudice against himself?

Mr. NEDZI. Mr. Speaker, I think that was a reasonable assumption on his part, certainly.

Mr. DRINAN. Mr. Speaker, I thank the gentleman for responding.

Mr. ROUSSELOT. Mr. Speaker, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from California.

Mr. ROUSSELOT. Mr. Speaker, on page 28 of the report before us, at the bottom of the page, it says:

There being 33 Yeas and no Nays, Mr. NEDZI's proposal to bring a resolution before the House of Representatives citing Mr. G. Gordon Liddy for contempt of Congress was approved.

Do we have a printed copy of this resolution?

Mr. NEDZI. The resolution was read before the House.

Mr. ROUSSELOT. The normal procedure is that we have a printed copy.

Mr. NEDZI. It is on the front page.

Mr. ROUSSELOT. Is there some great hurry that we cannot read the resolution?

Mr. NEDZI. It is on the front page of this report. This has been in the hands of the Members.

Mr. ROUSSELOT. The reason I asked is that we had some difficulty last Thursday, my office, when we were informed that the resolution would come up, in getting a copy. I just wondered if there was some great reason as to why everyone was denied a copy prior to this time.

Mr. NEDZI. Nobody was denied a copy. This was sent out to all the Members August 29.

Mr. ROUSSELOT. What is the number of it?

Mr. NEDZI. There is no number. It is a committee print.

Mr. ROUSSELOT. Could the gentleman tell me the difference between this citation on Mr. Liddy and the citation against the president of CBS, and how he voted on that?

Mr. NEDZI. I frankly cannot remember how I voted on that.

Mr. ROUSSELOT. Mr. Speaker, I am going to be interested to see how the votes go in comparison with protection of civil rights. I am inclined to vote for this resolution, but as it relates to the one for the president of CBS, who of course is in a much better position to protect himself than this gentleman, who is now in jail and obviously salted away.

I am really somewhat disturbed, although the gentleman assures me that everybody was given adequate notification; yet, he cannot even tell me the number of the resolution we have before us.

Mr. NEDZI. The record is going to have to speak for itself on that score. I am advised there is no number until afterward.

Mr. HUNGATE. Mr. Speaker, will the gentleman yield?

Mr. NEDZI. I yield to the gentleman from Missouri.

(Mr. Hungate asked and was given permission to revise and extend his remarks.)

Mr. HUNGATE. Mr. Speaker, I rise to support the committee's position based on the research report of the library of Congress which follows:

See p. 930.

Mr. NEDZI. Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER. The question is on the resolution.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. NEDZI. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 334, nays 11, answered “present” 1, not voting 88, as follows :

[Roll No. 442]

YEAS—334

Abdnor	Esch	McFall
Abzug	Evans, Colo.	McKay
Adams	Evins, Tenn.	Macdonald
Alexander	Fascell	Madden
Anderson, Calif.	Findley	Madigan
Anderson, Ill.	Fish	Mahon
Andrews, N. Dak.	Fisher	Mallary
Annunzio	Flood	Mann
Archer	Flowers	Martin, Nebr.
Arends	Ford, Gerald R.	Martin, N.C.
Armstrong	Ford, William D.	Mathias, Calif.
Ashley	Forsythe	Matsunaga
Aspin	Fountain	Mazzoli
Bafalis	Frenzel	Meeds
Baker	Frey	Melcher
Bauman	Froehlich	Metcalfe
Beard	Fulton	Mezvinsky
Bennett	Gaydos	Milford
Bergland	Gettys	Miller
Bevill	Glaimo	Minish
Blester	Gibbons	Mink
Bingham	Gilman	Mitchell, Md.
Boggs	Ginn	Mitchell, N.Y.
Boland	Goldwater	Mizell
Brademas	Gonzalez	Mollohan
Breaux	Goodling	Montgomery
Breckinridge	Grasso	Moorhead, Calif.
Brinkley	Green, Pa.	Morgan
Brooks	Griffiths	Clark
Broomfield	Gross	Clausen, Don H.
Brown, Calif.	Grover	Clay
Brown, Mich.	Gude	Cleveland
Broyhill, N.C.	Gunter	Cochran
Broyhill, Va.	Guyer	Cohen
Buchanan	Haley	Collier
Burgener	Hamilton	Collins, Ill.
Burke, Fla.	Hammerschmidt	Collins, Tex.
Burke, Mass.	Hanley	Conable
Burleson, Tex.	Jones, Tenn.	Conlan
Burlison, Mo.	Jordan	Conte
Butler	Kastenmeier	Corman
Byron	Kazen	Cotter
Camp	Kemp	Coughlin
Carey, N.Y.	Ketchum	Cronin
Carney, Ohio	King	Daniel, Dan
Casey, Tex.	Koch	Daniel, Robert W., Jr.
Cederberg	Kuykendall	Daniels, Dominick V.
Chamberlain	Kyros	Danielson
Clancy	Latta	Davis, Wis.
Dent	Leggett	de la Garza
Derwinski	Lent	Dellenback
Devine	Long, La.	Dellums
Dickinson	Long, Md.	Denholm
Downing	Lott	Dennis
Drinan	Lujan	Hansen, Wash.
du Pont	McClory	Harvey
Eckhardt	McCloskey	Hastings
Edwards, Calif.	McCollister	Hawkins
Eilberg	McCormack	Hays
Erlenborn	McDade	Hébert

Hechler, W. Va.
 Heckler, Mass.
 Heinz
 Helstoski
 Henderson
 Hicks
 Hillis
 Hinshaw
 Hogan
 Holtzman
 Hosmer
 Howard
 Huber
 Hungate
 Hunt
 Hutchinson
 Ichord
 Jarman
 Johnson, Calif.
 Johnson, Pa.
 Jones, Ala.
 Jones, N.C.
 Jones, Okla.
 Mosher
 Moss
 Murphy, N.Y.
 Myers
 Natcher
 Nedzi
 Nelsen
 Nichols
 Obey
 O'Brien
 O'Hara
 O'Neill
 Owens
 Parris
 Passman
 Patten
 Perkins
 Pettis
 Peyser
 Pickle
 Poage
 Powell, Ohio
 Preyer
 Price, Ill.
 Price, Tex.
 Pritchard
 Quie
 Railsback
 Randall

Rangel
 Rarick
 Rees
 Regula
 Reuss
 Rhodes
 Riegle
 Rinaldo
 Roberts
 Robinson, Va.
 Robinson, N.Y.
 Rodino
 Roe
 Rogers
 Roncalio, Wyo.
 Roncallo, N.Y.
 Rooney, Pa.
 Rose
 Rosenthal
 Roush
 Rousselot
 Roy
 Roybal
 Ruppe
 Ruth
 Ryan
 Sandman
 Sarasin
 Sarbanes
 Satterfield
 Saylor
 Scherele
 Schneebeli
 Schroeder
 Sebelius
 Seiberling
 Shipley
 Shoup
 Shriver
 Shuster
 Sikes
 Skubitz
 Smith, N.Y.
 Snyder
 Spence
 Staggers
 Stanton, J. William
 Stanton, James V.
 Stark
 Steed
 Steelman
 Steiger, Wis.

Stokes
 Stubblefield
 Stuckey
 Studds
 Sullivan
 Symington
 Taylor, Mo.
 Taylor, N.C.
 Teague, Calif.
 Thompson, N.J.
 Thomson, Wis.
 Thone
 Thornton
 Tiernan
 Towell, Nev.
 Treen
 Ullman
 Van Deerlin
 Vander Jagt
 Vanik
 Vigorito
 Waggonner
 Waldie
 Wampler
 Ware
 Whalen
 White
 Whitehurst
 Whitten
 Widnall
 Wiggins
 Williams
 Wilson, Bob
 Wilson, Charles H.,
 Calif.
 Wilson, Charles, Tex.
 Winn
 Wright
 Wyatt
 Wylie
 Wyman
 Yates
 Young, Alaska
 Young, Fla.
 Young, Ga.
 Young, Ill.
 Young, S.C.
 Young, Tex.
 Zablocki
 Zion
 Zwach

NAYS—11

Blackburn
 Burton
 Carter
 Duncan

Edwards, Ala.
 Flynt
 Johnson, Colo.
 Landgrebe

Quillen
 Stefinger, Ariz.
 Symms

ANSWERED "PRESENT"—1

Ashbrook

NOT VOTING—88

Addabbo	Fraser	Minshall, Ohio
Andrews, N.C.	Frelinghuysen	Moakley
Badillo	Fuqua	Moorhead, Pa.
Barrett	Gray	Murphy, Ill.
Bell	Green, Oreg.	Nix
Biaggi	Gubser	Patman
Blatnik	Hanna	Pepper
Bolling	Hanrahan	Pike
Bowen	Hansen, Idaho	Podell
Brasco	Harrington	Reid
Bray	Harsha	Rooney, N.Y.
Brotzman	Holifield	Rostenkowski
Brown, Ohio	Holt	Runnels
Burke, Calif.	Horton	St Germain
Chappell	Hudnut	Sisk
Chisholm	Karth	Slack
Clawson, Del.	Keating	Smith, Iowa
Conyers	Kluczynski	Steele
Crane	Landrum	Stephens
Culver	Lehman	Stratton
Davis, Ga.	Litton	Talcott
Davis, S.C.	McEwen	Teague, Tex.
Delaney	McKinney	Udall
Diggs	McSpadden	Veysey
Dingell	Mailliard	Walsh
Donohue	Maraziti	Wolff
Dorn	Mathis, Ga.	Wydler
Dulski	Mayne	Yatron
Eshleman	Michel	
Foley	Mills, Ark.	

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEDZI. Mr. Speaker, I ask unanimous consent that all Members who wish to do so may have 5 legislative days in which to revise and extend their remarks on the resolution just agreed to.

The SPEAKER. Is there objection to the request of the gentleman from Michigan?

There was no objection.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA)	
)	Criminal No.
v.)	
)	Violation of 2 U.S.C. § 192
GEORGE GORDON LIDDY,)	(Contempt of Congress)
)	
Defendant.)	

INDICTMENT

The Grand Jury charges:

COUNT ONE

1. Pursuant to Section 121 of the Legislative Reorganization Act of 1946, Public Law 601 (60 Stat. 822), as amended, House Resolution 6, 93rd Congress, dated January 3, 1973, including clause 3 of Rule XI of the Rules of the House of Representatives adopted therein, and House Resolution 185, 93rd Congress, dated February 21, 1973, the House of Representatives was empowered to and did create the Committee on Armed Services, having duties and powers as set forth in said Rules and Resolutions.

2. Pursuant to House Resolution 185, 93rd Congress, dated February 21, 1973, and Rule 6(c) of the Rules Governing Procedure of the Committee on Armed Services, the Chairman of the Committee on Armed Services, at a meeting of the Committee held on February 27, 1973, established the Special Subcommittee on Intelligence, and delegated to that Subcommittee the Committee's authority "to make periodic inquiries into all phases of intelligence activities

- 2 -

within the Department of Defense and within the agencies established under the National Security Act, and to make legislative recommendations when appropriate."

3. The Central Intelligence Agency is an agency established under Section 102 of the National Security Act of 1947, Public Law 253 (61 Stat. 497).

4. Pursuant to House Resolution 185, 93rd Congress, dated February 21, 1973, and a delegation of authority from the Chairman of the Committee on Armed Services to the Special Subcommittee on Intelligence, by letter dated May 21, 1973, the Subcommittee, through its Chairman, was empowered to compel the attendance and testimony of witnesses, by subpoena or otherwise, and to administer oaths to witnesses.

5. On or about May 11, 1973, pursuant to Rule 6(d) of the Rules Governing Procedure of the Committee on Armed Services and the directive of the Chairman of the Committee, the Special Subcommittee on Intelligence commenced hearings within its jurisdiction, to wit, hearings into the alleged involvement of the Central Intelligence Agency in (a) break-ins at, and electronic surveillance of, the offices of the Democratic National Committee located in the Watergate office building in Washington, D. C., (b) any subsequent cover-up of the identities of the persons who were responsible for, participated in, and had knowledge of such activities, and (c) the burglary of the office of Dr. Lewis J. Fielding, the psychiatrist of Dr. Daniel Ellsberg, in Beverly Hills, California on September 3, 1971.

- 3 -

6. On or about July 20, 1973, GEORGE GORDON LIDDY, the DEFENDANT, having lawfully been summoned as a witness by the authority of the House of Representatives, as exercised by the Special Subcommittee on Intelligence of the Committee on Armed Services, to give testimony upon a matter under inquiry by the Subcommittee, appeared before the Subcommittee at an executive session being held within the District of Columbia and was directed by the Chairman of the Subcommittee to be sworn to testify, but did then and there refuse to be sworn to testify, and thereby did willfully make default.

(Title 2, United States Code, Section 192.)

COUNT TWO

7. The Grand Jury realleges all of the allegations of paragraphs 1, 2, 3, 4, and 5 of Count One of this Indictment.

8. On or about July 20, 1973, GEORGE GORDON LIDDY, the DEFENDANT, appeared as a witness before the Special Subcommittee on Intelligence of the Committee on Armed Services at an executive session within the District of Columbia to be asked certain questions which were pertinent to the question under inquiry by the Subcommittee, but did then and there refuse to answer any question before the Subcommittee.

(Title 2, United States Code, Section 192.)

A True Bill.

Foreman

LEON JAWORSKI
Special Prosecutor
Watergate Special Prosecution
Force

March 7, 1974

United States of America vs.

United States District Court for THE DISTRICT OF COLUMBIA

DEFENDANT

GEORGE GORDON LIDDY

DOCKET NO.

74-117

JUDGMENT AND PROBATION/COMMITMENT ORDER

AO 245

 In the presence of the attorney for the government
 the defendant appeared in person on this date

MONTH	DAY	YEAR
May	24,	1974

COUNSEL

☐ WITHOUT COUNSEL However the court advised defendant of right to counsel and asked whether defendant desired to have counsel appointed by the court and the defendant thereupon waived assistance of counsel.
☒ WITH COUNSEL

Charles F. Barker, Esq.

(Name of Counsel)

FILED

MAY 24 1974

 The court has adjudged on May 10, 1974, that, the defendant having pleaded

(date)

JAMES F. DAVEY, CLERK

☐ GUILTY, and the court being satisfied that there is a factual basis for the plea,
☒ NOT GUILTY

and there being a finding/verdict of guilty

Defendant has been convicted as charged

of the offense(s) of Contempt of Congress, Violation 2 U.S.C. 192PLEA,
FINDING,
JUDGMENT

The court asked whether defendant had anything to say why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the court, the court adjudged the defendant guilty as charged and convicted and ordered that:

Count one SIX (6) months;
 Count two SIX (6) months; said sentences
 to run concurrently by the count and
 concurrently to any sentence now being
 served, it is further adjudged that the
 Execution of said Sentence is Suspended
 and the defendant is placed on unsupervised
 probation for period of one hour.

INSTRUCTIONS

If sentence is imposed: Enter: (1) sentence or sentences specifying counts if any, (2) whether sentences run concurrently or consecutively and, if consecutively, when each term is to begin with reference to termination of preceding term or to any outstanding or unserved sentence, (3) whether defendant is to be further imprisoned until payment of fine or fines and cost or until he is otherwise discharged provided by law.

If execution of sentence is suspended enter (in addition to items 1 thru 3 above) the facts regarding the suspension or the sentence(s) and the period of probation.

If imposition is suspended and probation ordered enter the following: "The imposition of sentence is hereby suspended and the defendant is placed on probation for a period of () years from this date. If more space is needed continue on a blank sheet. Where probation is ordered probationer must be instructed as to its conditions.

SENTENCE
OR
PROBATION
ORDERSPECIAL
CONDITIONS
OF
PROBATIONGENERAL
CONDITIONS
OF
PROBATION

COMMITMENT

Where probation has been ordered the defendant shall, during the period of probation, conduct himself as a law-abiding, industrious citizen and observe all conditions of probation prescribed by the court. TO THE DEFENDANT - You shall:

- (1) refrain from violation of any law (federal, state, and local) and get in touch immediately with your probation officer if arrested or questioned by a law-enforcement officer;
- (2) associate only with law-abiding persons and maintain reasonable hours;
- (3) work regularly at a lawful occupation and support your legal dependents, if any, to the best of your ability (When out of work notify your probation officer at once, and consult him prior to job changes);
- (4) not leave the judicial district without permission of the probation officer;
- (5) notify your probation officer immediately of any change in your place of residence;
- (6) follow the probation officer's instructions and report as directed.

The Court may change the conditions of probation, reduce or extend the period of probation, and at any time during the probation period or within the maximum probation period of 5 years permitted by law, may issue a warrant and revoke probation for a violation occurring during the probation period.

The court orders commitment to the custody of the Attorney General and recommends,

It is ordered that the Clerk deliver a certified copy of this judgment and commitment to the U.S. Marshal or other qualified officer.

SIGNED BY

☒ U.S. District Judge
☐ U.S. Magistrate

JOHN H. PRATT

CLERK JAMES F. DAVEY

Commitment
Order

(date)

Probation
Order

(date)

CERTIFIED AS A TRUE COPY ON

THIS DATE

By _____ () CLERK

Page _____ of _____ () DEPUTY

COPY 1 - ORIGINAL

**Additional Testimony Received After Report H.A.S.C. No. 93-25,
Dated October 23, 1973**

**HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
*Washington, D.C., Monday, February 25, 1974.***

The subcommittee met at 10:30 a.m., in room 2339, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. For the benefit of the members of the subcommittee, on Friday Mr. O'Neill and Mr. Miller, and this was late Friday, so late Mr. Slatinshek had already left his office, Mr. O'Neill and Mr. Miller advised me of another bit of evidence that was in the files somewhere of the Agency involving the Watergate matter which had come to the attention of the Director only late last week.

The information given to me resembled the incident we went through about 8 months ago with some McCord letters, and which caused me great concern.

To this moment I do not really understand how this all could have happened given the intensive review that this committee has made of the entire record, transactions, and the information which we had been given relative to how diligently and strongly all the directors with whom we have dealt of the Agency pursued efforts to get all the information out.

Because we had this briefing scheduled this morning, I asked Mr. Colby to shed some light on the entire incident for us this morning.

We will proceed with that at the present time.

Mr. SLATINSHEK. Perhaps you would like to insert in the record a memorandum given to you by the Agency in respect to this matter?

Mr. NEDZI. Without objection, the memorandum will be included.

[The following information was received for the record:]

FEBRUARY 22, 1974.

Memorandum for: Director of Central Intelligence.

Subject: Watergate Incident.

1. This memorandum is for *information* only.

2. The Office of Security has in its files unconfirmed information reflecting that shortly after the Watergate break-in, Mr. Lee R. Pennington, Jr., who is a former confidential source of the Office of Security's Security Research Staff, is believed to have entered the home and possibly the office of Mr. James W. McCord, Jr., for the purpose of destroying documents which might establish a link between Mr. McCord and the Central Intelligence Agency. There is no indication that this activity was undertaken at the initiative of any representative of this Agency.

3. The present extent of knowledge of this incident within the Office of Security was not established until February 20, 1974. On that date, a review was being made of a draft memorandum concerning Agency tapes and tape transcripts, prepared by the Office of Legislative Counsel, which contained a statement that the Agency had provided all relevant data relating to the Watergate

matter. A concurrent review of the records of the Office of Security indicated that memoranda pertaining to aspects of the Pennington incident were not in all probability disseminated beyond the Office of Security. The Office of Security could not, therefore, subscribe to a blanket statement to that effect.

4. On 20 February 1974, the Office of Security initiated a conference with representatives of the Office of the Inspector General in an effort to determine if knowledge of this incident had gone forward. It was determined during this conference that the Inspector General was not aware of the alleged incident. Efforts were immediately undertaken to interview any Office of Security personnel who might have knowledge bearing on the matter, and it is from these interviews that our current level of knowledge was developed. Our investigation has disclosed that the initial report of this incident was probably made to Mr. Paul F. Gaynor, former Chief, Security Research Staff, Office of Security, on or before 22 June 1972. The information, considered fragmentary at the time, was said to have been reported to the undersigned by Mr. Gaynor. I have no personal recollection of such a conversation. Mr. Edward F. Sayle of the Security Research Staff, learned of some of the details from Mr. Gaynor on or before 22 June 1972, and reported them to Mr. Security Officer No. 1 of the Personnel Security Division on that date, because Mr. Security Officer No. 1 was involved in this Office's investigation of the Watergate incident. Mr. Sayle told Mr. Security Officer No. 1 that the details of the incident were known to Mr. Gaynor. Mr. Sayle also alleged that the details were known to the undersigned.

5. The name Pennington next surfaced on 18 August 1972, when Special Agent Arnold L. Parham of the Alexandria Office of the Federal Bureau of Investigation, telephoned the Agency asking whether there was any record of a Pennington who was supposed to have been Mr. McCord's supervisor. Mr. Parham requested traces and wanted to know Mr. Pennington's current address because the Bureau wanted to interview him. Mr. Parham did not provide us with Mr. Pennington's full name. On 18 August 1972, after a check of Office of Security files, Mr. Parham was provided with the name of Cecil Harold Pennington, a former Office of Security employee who had not been Mr. McCord's supervisor and who had been retired for a number of years. On 21 August 1972, Special Agent Parham called the Agency asking for a date of birth on Cecil Harold Pennington. This date was provided and on 25 August 1972, Special Agent Parham asked to review Cecil H. Pennington's Personal History Statement. In conversation after doing so, Special Agent Parham stated that the Bureau was interested in identifying the individual who picked up Mr. McCord following his release from jail. Special Agent Parham further stated that he did not believe Cecil Harold Pennington was the individual they were trying to identify.

6. On 28 August 1972, after reviewing Cecil H. Pennington's official personnel file, the Office of Security advised Special Agent Parham that the personnel file contained no pertinent information other than what was previously furnished. Special Agent Parham was told that if the Bureau received additional information regarding the individual named Pennington, this Office would be glad to conduct further checks. No such request has been forthcoming from the Bureau.

7. Upon receipt of the first inquiry from the Federal Bureau of Investigation concerning "Mr. Pennington" on 18 August 1972, Mr. Security Officer No. 1 recalled his conversation with Mr. Sayle in June 1972, and checked with Mr. Sayle concerning the circumstances of Mr. Pennington's possible post-Watergate involvement. Mr. Sayle told Mr. Security Officer No. 1 that Mr. Lee Pennington was a (former) Federal Bureau of Investigation Agent who had assisted the Office of Security at the time of the Watergate incident. Specifically, Mr. Pennington had, according to Mr. Sayle, entered Mr. McCord's office and home destroying any indication of connections between the Agency and Mr. McCord. In burning documents the McCord home suffered considerable smoke damage and, according to Mr. Sayle, three rooms had to be repainted.

8. On 24 August 1972, while Mr. Security Officer No. 1 was speaking with Mr. Sayle concerning another matter, Mr. Sayle mentioned that the two individuals who painted Mr. McCord's house after Mr. Lee Pennington burned documents there were Lucille and Donald Sweany (Donald I. Sweany, Jr.). According to Mr. Sayle, Lucille Sweany was once Mr. McCord's secretary in the Security Research Staff. This has been verified, but Mrs. Sweany left the Agency at the time of her marriage. On 20 February 1974, it was learned from Mr. Louis W. Vasaly, Research Branch, Office of Security, that Mr. Pennington made a passing reference to having entered the home and office of Mr. McCord after the

Watergate break-in to search for documents which might link the Agency with Mr. McCord. Mr. Vasaly was Mr. Pennington's Case Officer at the time of the Watergate break-in. Mr. Vasaly said that Mr. Pennington had told him nothing about destroying any documents or, for that matter, any other items. Mr. Vasaly also advised that it was his personal assumption, based upon nothing concrete, that Mrs. McCord had requested Mr. Pennington to do this search.

9. To our knowledge the only individual having had direct contact with Mr. Pennington in relation to this matter who has not yet been interviewed is Mr. Paul F. Gaynor, who has now retired.

10. For your information, Mr. Pennington was terminated on 31 December 1973. Prior to that time, he was under contract as a Confidential Informant of this Office at a salary of \$250.00 per month.

HOWARD J. OSBORN,
Director of Security.

Mr. NEDZI. Mr. Colby, is there any additional information on this matter?

TESTIMONY OF WILLIAM E. COLBY, ACCOMPANIED BY HOWARD J. OSBORN, STEPHEN L. KUHN, LOUIS W. VASALY, EDWARD F. SAYLE, SECURITY OFFICER NO. 1 AND SECURITY OFFICER NO. 2

Mr. COLBY. Mr. Chairman, I got this memorandum in the afternoon of the 22d. Within about 15 minutes I had it on its way down here.

Since that time I have talked to Mr. Osborn and a couple others. We did decide that, rather than launch an investigation of our own with respect to people outside of the agency, that we would pass copies of this memorandum not only to this committee but also to the Watergate Committee in the Senate, and to the Office of the Special Prosecutor.

We have communicated with the Office of the Special Prosecutor suggesting that they conduct any further investigation on this matter that might be appropriate rather than having the Agency do it.

Obviously Mr. Osborn has looked into the matter in his office. He is prepared here to discuss it. I have had two conversations with him since that time, at which point we really did not develop any additional facts that I know of in particular. There are some things he might mention.

Mr. BRAY. Has this information been given to the Watergate Committee?

Mr. COLBY. It has.

Mr. BRAY. Why have we not seen it in the papers?

Mr. COLBY. I don't know.

Mr. BRAY. They probably have not had time.

Mr. NEDZI. Why not have Mr. Osborn come in?

Is there anybody else?

Mr. COLBY. We have brought along Mr. Osborn, Mr. Stephen L. Kuhn, Mr. Louis W. Vasaly, Mr. Sayle, Mr. Security Officer No. 1, and Mr. Security Officer No. 2.

I am not sure of Mr. Security Officer No. 2's connection.

We have six people here. I think all the people mentioned here are present except for Mr. Pennington, obviously, who is no longer connected with us, and, secondly, Mr. Gaynor, also mentioned here, who has retired. We have not brought him.

Mr. NEDZI. Mr. Osborn, do you solemnly swear the testimony you will give before this subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF HOWARD J. OSBORN

Mr. OSBORN. I do, sir.

Mr. NEDZI. When did this most recent incident first come to your attention, Mr. Osborn?

Mr. OSBORN. Mr. Stephen L. Kuhn, who is on that list, mentioned this development to me on Wednesday of last week. I told him to write it up for the Director. He wrote it up for the Director and presented it to me on Friday of last week.

I read it, signed it, and sent it on its way.

Mr. NEDZI. Why did it take 2 days to write it up?

Mr. OSBORN. It was a kind of lengthy memorandum, a page and a half. They wanted it to be completely accurate.

Mr. NEDZI. Does that make sense?

Mr. OSBORN. I think so, sir, in view of the fact that the three or four fellows who have been researching this material had been working an awful long time, night and day, and I think they want to be very careful of their facts.

Mr. NEDZI. Researching what?

Mr. OSBORN. Researching anything that has to do with Watergate, any possibility.

Mr. NEDZI. When did they first discover this?

Mr. OSBORN. I would prefer they spoke for themselves on that because I cannot really remember, but it was quite a while ago.

Mr. NEDZI. How could you be so insensitive as not to call the Director immediately upon any hint of this kind of thing? That is the difficulty I have understanding.

Mr. OSBORN. Well, I wanted to give him all the facts, sir, and I wanted to give it to him in writing.

If there is one thing I have learned from my experience over the past year and a half, that is anything I have to do with Watergate, I will put it in writing.

Mr. NEDZI. Is there anything in the files in writing?

Mr. OSBORN. Yes, they found some memorandums which tickled their fancy and brought them to this realization and brought them to me orally and then subsequently wrote the memorandum.

Mr. NEDZI. Where are the memorandums now?

Mr. OSBORN. I believe they are at the present time in the possession of the Inspector General of the Agency. As a matter of fact, I think they were turned over to him this morning.

Mr. NEDZI. Will those be made available to us?

Mr. COLBY. Within an hour.

Mr. OSBORN. In the subsequent questioning of Mr. Security Officer No. 1 and Mr. Security Officer No. 2 I think that will become very clear, when they first discovered it, how they discovered it, how they put it together. But in this instance I am delighted to say, as opposed to the earlier appearance before you, Mr. Chairman, I can tell you I did not forget it. I did not know about it until Thursday.

Mr. NEDZI. In other words, you do not subscribe to the statements made by Gaynor and Mr. Sayle that you were advised of this incident?

Mr. OSBORN. No, sir, I do not. I have known Paul Gaynor professionally and as a personal friend for a number of years. If he said he told me I am sure he thinks he told me, but I know he did not.

Mr. NEDZI. How about Mr. Sayle?

Mr. OSBORN. Same way.

Mr. NEDZI. Two men said they told you but you know they did not.

Mr. OSBORN. I know they did not.

I know it so well that I would be willing to go on a polygraph.

Mr. NEDZI. Any questions, Mr. Chairman?

Mr. HÉBERT. I would like to try to clear up this one sentence which says, quote, "for the purpose of destroying documents which might establish a link between Mr. McCord and the Central Intelligence Agency."

Was that link between McCord and the CIA—what reference has that to Watergate?

McCord can be linked to you and have no reference to Watergate whatsoever. That seems to be the only purpose of the memorandum, to establish the fact he was linked with the CIA. Where does Watergate enter the picture?

Mr. COLBY. This was right after the Watergate event, Mr. Chairman.

Mr. HÉBERT. That doesn't say that. Mr. Osborn was so careful to put it all in writing. What is trying to be established, that this links CIA as an agency in the Watergate activity, or does it establish that McCord was linked with the CIA and McCord is convicted in the Watergate which has not established CIA involvement in Watergate?

Mr. COLBY. I think that paragraph is an attempt to summarize the rest of the memorandum, Mr. Chairman. That is how it appears to me.

Mr. HÉBERT. What is it summarizing?

Mr. NEDZI. It took 2 days to prepare.

Mr. HÉBERT. McCord can be established with CIA and have nothing to do with Watergate.

Mr. NEDZI. If I may, Mr. Chairman, when did you start this investigation to determine whether there was anything in your office relating to Watergate?

Mr. OSBORN. I first started this investigation to determine whether Mr. McCord, whether the Agency had anything to do with Watergate, upon instructions from Mr. Helms on Monday, Watergate occurred on the 17th of June, I believe. It was on the Monday following Watergate.

Mr. NEDZI. How did this come to your attention so recently?

Mr. OSBORN. Because in searching through the files, as indicated here—

Mr. NEDZI. You did not search through the files until last week?

Mr. OSBORN. They searched through the files but they found this information apparently which they had not found before.

Mr. SLATINSHEK. The occasion for their looking through the files is somewhat misstated, I think. I am trying to be helpful to the hearing here.

It is my impression, on the basis of this memorandum, that it came to light only when the memorandum was being prepared for Mr. Nedzi,

a flat statement there was no other information in the CIA files which related to this incident, that people in your office said they cannot support this.

Mr. OSBORN. Because suddenly we found this other thing.

Mr. SLATINSHEK. The point is that they were conscious of this at the time they read the memorandum, the draft of the memorandum, so therefore some time prior to that they were aware of it. What we are trying to establish is when did they know about this?

Mr. OSBORN. Yes, sir, and Mr. Security Officer No. 1 and Mr. Security Officer No. 2 can testify directly to that.

Mr. SLATINSHEK. I would imagine that you as chief of security would want to know when the hell they knew about this.

Mr. OSBORN. Believe me, when they told me about it I went back and found out. I haven't got notes as to the dates, but they do have the dates, very specific dates.

Mr. SLATINSHEK. To the best of your recollection what did they tell you as to when they first became aware of this?

Mr. OSBORN. I am really just speaking from memory. I cannot say these are facts. But from my oral briefing I think they discovered this back in 1972 when Mr. Security Officer No. 1 went to Mr. Sayle and said, "What is this all about?" And Mr. Sayle said, "Mr. Gavnor knew all about this," and Mr. Sayle told me, "Mr. Security Officer No. 1 thought since I already knew about it it was not pertinent at that time."

Mr. NEDZI. When did you find out about their knowing about it?

Mr. OSBORN. When Mr. Kuhn briefed me. I believe it was on Wednesday of last week. That may have been Thursday. I know this memorandum is dated the 22d, which is Friday. I talked to Mr. Colby Saturday morning or Friday afternoon—Friday afternoon, I think. So it may have been Thursday that Mr. Kuhn briefed me, and I told him to prepare the memorandum which is stated on Friday. Mr. Kuhn will testify to that. I am really not certain.

Mr. NEDZI. Who was dealing with Special Agent Parham of the FBI?

Mr. OSBORN. As I think I testified earlier, on routine cases of name checks the Bureau would come to us with name checks of former employees, employees who had some association, telephone numbers that were found in Mr. Hunt's list finder. We would investigate that and—

Mr. NEDZI. Who would investigate it? Were you aware of it?

Mr. OSBORN. Yes, sir; my office investigated it.

Mr. NEDZI. Were you aware of the FBI asking the Agency for a check on Pennington?

Mr. OSBORN. I was not personally aware of it at the time.

Mr. NEDZI. When were you first aware of the fact that the Agency asked about Pennington?

Mr. OSBORN. On either Wednesday or Thursday of last week.

Mr. NEDZI. Were you aware of any name checks that the FBI was making of your office?

Mr. OSBORN. Indeed I was because I signed the memorandums that went over. I may well have signed the memorandums that went over on Cecil H. Pennington. I probably would because I sign all memorandums from my office that go to the FBI.

I believe I testified once before, Mr. Chairman, that I handled one segment of the investigation. I did not handle the segment of the investigation involving the request to Cushman, to Hunt, and this kind of thing. This was handled personally by Mr. Colby, who was executive director at the time.

I detailed to him full-time one of my officers, a Mr. Leo H. Dunn. Mr. Dunn and I never discussed it. It was a special investigation conducted by them. However, I did conduct an investigation of the name checks given us by Mr. Parham and by the FBI and signed those.

Mr. NEDZI. Was Cecil Pennington one of those?

Mr. OSBORN. It could have been, but I cannot remember that. I am sure if we responded in writing there must be a memorandum with my signature to that effect.

Mr. NEDZI. And the question never arose at that time that Pennington was actually on the Agency payroll?

Mr. OSBORN. The name check request was for a Cecil H. Pennington.

Mr. NEDZI. Not according to this memorandum. It was for a Mr. Pennington. The full name was not provided.

Mr. OSBORN. Cecil Harold Pennington, a former officer, who had been Mr. McCord's supervisor, retired for a number of years.

Mr. NEDZI. That is the name you provided to Parham but that is not the name Parham gave you?

Mr. OSBORN. I think the reason for that is that Mr. Lee Pennington was a closely held confidential informant of what was then the Security Research Staff headed by Mr. Paul Gaynor, and I think his file was kept very closely restricted.

Mr. NEDZI. Were you aware of Pennington being an Agency employee?

Mr. OSBORN. I was aware of the fact we used Mr. Pennington, yes, sir.

Mr. NEDZI. When were you first aware of this?

Mr. OSBORN. Shortly after I became Director of Security, July 1, 1964.

If you will recall, the last time I appeared before you, in my affidavit I established the fact we had a confidential informant that had contact with Mr. McCord, but we had understood it was purely because of the personal relationship between Mr. Lee Pennington and Mr. McCord and Mr. Pennington's desire to help his wife. It was personal.

Mr. NEDZI. I do not recall that but——

Mr. OSBORN. It is in my affidavit, sir.

Mr. NEDZI. It is entirely possible.

Mr. OSBORN. I pointed out, also, it was not in the affidavit, I volunteered later that I informed Mr. Gaynor orally upon an occasion when he told me that Mr. Pennington said Mrs. McCord was in dire straits. I said, "I do not want you to discuss McCord or the Watergate matter under any circumstances or make any inquiries of Mr. Pennington. That subsequently was transmitted to Mr. Gaynor in writing through Mr. Stephen Kuhn."

I said, "If he volunteers anything, fine, but I do not want us to get involved with Pennington involving the Watergate matter or McCord."

That may well be in the transcript of my earlier appearance. I am not sure.

Mr. NEDZI. Do you expect us to believe that having this kind of knowledge back at the time this occurred and giving those kinds of instructions with respect to Pennington and McCord that you were unaware of this other business of Pennington going into McCord's home shortly after the Watergate break-in?

Do you really expect us to believe that?

Mr. OSBORN. I expect you to believe that I did not know anything about Mr. Lee Pennington going into Mr. McCord's—

Mr. NEDZI. How could you not know? You say there are memoranda in the file. Did you not look into the incident, what Pennington actually did?

Mr. OSBORN. I think this will come out in subsequent testimony of the people who worked on this in detail.

Mr. SLATINSHEK. One general question. The Director of the Agency, Mr. Schlesinger, appeared before the committee in connection with this entire matter. At that time he indicated that he had issued a directive—correct me if I am mistaken, Mr. Colby—to the effect he wanted any employee of the Agency who had any connection with Watergate to come forward and give him personally any information they had regarding the matter.

Obviously the gentleman who worked in your office had told you not to do so. This is the only conclusion I can reach because this information was not transmitted to the committee until now.

Furthermore, he also advised the committee that the Inspector General was making a thorough search of all the records and interrogating a number of people with respect to this matter.

Obviously the Inspector General did not run across this.

If he had looked at the records in your office would he not have found these memorandums of which he speaks? Or had they not been in the office at that time?

Had they been removed by one of the employees? That is basically the question.

Mr. OSBORN. No; he obviously missed this particular significance because he has had access to all the records I had which related to Watergate in any way.

I might say that it was responsive to Mr. Schlesinger's directive that I surfaced before this group the fact that we did know of this confidential source of information, and that is why I put that in my affidavit, because he did in fact have contact with McCord. I felt this was responsive to Mr. Schlesinger's directive.

Mr. SLATINSHEK. You say that this memorandum and memorandums, which we do not have before us, are now with the Inspector General?

Mr. OSBORN. That is right.

Mr. SLATINSHEK. And you say it was available in your file and could have been ascertained and read by the Inspector General or his staff and personnel—these are my words—if they had done a thorough job of checking your records.

Mr. OSBORN. Right.

Mr. SLATINSHEK. Apparently they overlooked it and no one in your office called it to their attention.

Mr. OSBORN. Not until last week.

By Mr. Colby's direction I have turned over all Watergate files to the Inspector General. He has had access to them for the past 2 years, free access.

Mr. COLBY. "Turned over" is not quite right. You have had them but he has had access to them.

Mr. OSBORN. This morning I turned them all over to him. I no longer have any Watergate files.

Mr. NEDZI. Why did you wait until this morning to do that?

Mr. OSBORN. Because, to be very frank, I do not want any more things to come out from any more rocks from my office. I want the Inspector General to look at it.

Mr. NEDZI. May we get a categorical statement from you this morning that there is absolutely nothing else relating to Watergate in your files to your knowledge?

Mr. OSBORN. You have my categorical statement that to my knowledge there is nothing in my files relating to Watergate which has not already been surfaced to this committee.

Mr. NEDZI. Do you know of anything else, apart from your files, about the Watergate incident which in your judgment we are unaware of at this time?

Mr. OSBORN. No, sir, I do not.

Mr. SLATINSHEK. Would you state again for the record who assisted you in the preparation of this memorandum?

Mr. OSBORN. Actually nobody assisted me in the preparation of the memorandum. It was prepared for my signature by Mr. Stephen Kuhn, and I think probably directly by Mr. Security Officer No. 1 and Mr. Security Officer No. 2.

Mr. NEDZI. Why not have the others come in?

Mr. BRAY. What did Pennington do there? I see \$250 a month. Was he a part-time informant?

Mr. OSBORN. A part-time informant. He was paid when we used him. I can give you a brief rundown.

Mr. BRAY. His name is prominent. Has he been involved, arrested, or anything?

Mr. OSBORN. No, sir, he has been a very honorable man, a very patriotic man, a former agent for the FBI, retired from the FBI in 1950, worked for the Commission of the American Legion until November 1959. Since January 1960 he has been very active, I believe as Executive Secretary of the American Security Council. He is a close and long time friend of Mr. McCord. He kept us informed from time to time on items that he felt might be of interest in protecting the Agency's domestic installation.

Mr. BRAY. Where is he now?

Mr. OSBORN. I think in the Washington area but I have no idea. I have never, in fact, met Mr. Pennington. I would not know him if I saw him.

Mr. MELVIN PRICE. Mr. Osborn, in view of the fact that McCord had been writing letters to Mr. Gaynor, and so forth, immediately

after the break-in, is there any possibility that Mr. Pennington was assigned a job of breaking into the McCord home or office?

Mr. OSBORN. I would say knowing Paul Gaynor, Paul Gaynor would most certainly never get any instruction like that from me, under no circumstance. I would say, knowing Paul Gaynor, that I do not think he would instruct Mr. Pennington to do so. It is my speculation, and only speculation, that Mrs. McCord was concerned and asked Mr. Pennington to do this because Mr. Pennington was very helpful to her, in fact loaned her money.

Mr. NEDZI. What do you understand Mr. Pennington did?

Mr. OSBORN. I did not know what he did until this.

I know exactly what you know which is in this memorandum.

Mr. NEDZI. You have no information outside of this memorandum as to what Mr. Pennington actually did?

Mr. OSBORN. You mean in terms of breaking into the McCord home?

Mr. NEDZI. That is right.

Mr. OSBORN. No, sir.

Mr. NEDZI. With whom did you discuss this?

Mr. OSBORN. I discussed this with Mr. Kuhn, Mr. Security Officer No. 1, and Mr. Security Officer No. 2.

Mr. NEDZI. Did you ask them what they know about the matter?

Mr. OSBORN. I did; they knew nothing about it other than the fact that Mr. Pennington, I believe, had told them he had broken into the house, that he had burned documents, that he had burned so many that he had blackened three rooms of the house and it had to be repainted.

Mr. NEDZI. What kinds of documents?

Mr. OSBORN. They did not know what kinds of documents.

Again, if I may speculate, I think the only person who would know what kinds of documents were destroyed would be Mr. Pennington. I cannot conceive that Mr. McCord—and I told you before I do not think he did it, certainly not—I cannot conceive that Mr. McCord would deliberately take classified agency material when he retired. It does not sound like Mr. McCord to me.

Mr. NEDZI. What kind of theory do you have of this break-in, if any?

Mr. OSBORN. The break-in of Watergate?

Mr. NEDZI. The break-in of Mr. McCord's home and the burning of the documents.

Mr. OSBORN. My theory is that Mrs. McCord probably asked Lee Pennington to come in and look over Jim McCord's personal documents to see if there is any classified information or any information that would affect the agency. This is my speculation, Mr. Chairman.

Mr. NEDZI. Does that make sense? Why would McCord have such documents and why would she be concerned?

Mr. OSBORN. Well, her husband was just arrested for breaking into Watergate. She could have been a very distraught woman. I do not know Mrs. McCord. I never met her. Again, this is only speculation.

Mr. NEDZI. You have conducted no investigation within your office of any sort beyond what you have told us today?

Mr. OSBORN. No, sir, I first knew of this subject last week, on either Wednesday or Thursday.

Mr. Kuhn can give you the exact date.

Mr. NEDZI. You have no better reason for not notifying the Director immediately than that you wanted a memorandum prepared?

Mr. OSBORN. The one thing I have learned as a result of this unfortunate episode, with Mr. Schlesinger and subsequently with Mr. Colby, is not to give them half-assed answers, but to give them facts. I have become so upset from time to time that things have trickled up. You know, you tell Mr. Colby something, hypothetically, you know, white is black, and the next day you find black is white or some other thing. I wanted him to have the whole story and I wanted him to have it in writing.

Mr. SLATINSHEK. Could you clarify something in the memorandum, a statement reading as follows on the last page, "Mr. Vasaly was Mr. Pennington's Case Officer at the time of the Watergate break-in."

What is the significance of that statement?

Mr. OSBORN. That means that originally I believe Mr. McCord solicited Mr. Pennington's cooperation with the Agency. When Mr. McCord was assigned to other duties this responsibility was taken up by Mr. Gaynor—never totally relinquished by Mr. Gaynor but Mr. Gaynor was a busy man.

He subsequently turned this over to Lou Vasaly. What does this mean? This means Mr. Vasaly gets a call from Mr. Pennington. Mr. Pennington says, "I think I have something that would be of great interest to the Agency."

Mr. Vasaly says, "Fine, I will meet you at the ABC Restaurant for lunch."

They have lunch. He gets the information.

Mr. SLATINSHEK. He was the contact point?

Mr. OSBORN. He was a contact point. He was the guy who ran this.

Mr. SLATINSHEK. There was no inference here he was running an operation of one kind or another for the Agency, that is Mr. Vasaly, and Mr. Pennington was the instrument with whom he ran the operation?

Mr. OSBORN. Certainly no operation. He was a source of information, not an operational agent.

Mr. NEDZI. Why would Mr. Vasaly be in contact with Pennington when Pennington's affiliation with the Agency terminated last December?

Mr. OSBORN. I do not know that he was, Mr. Chairman.

Mr. NEDZI. You say here that on February 20, 1974 it was learned from Mr. Louis Vasaly.

Mr. OSBORN. I think because Mr. Pennington called him and volunteered that information.

Mr. Vasaly can provide an answer to that. It would be my understanding Mr. Pennington called Mr. Vasaly.

Mr. NEDZI. Did you talk with Mr. Vasaly before he prepared this?

Mr. OSBORN. No, I did not. I talked to Mr. Security Officer No. 2, Mr. Security Officer No. 1, and Mr. Kuhn.

Mr. NEDZI. Why didn't you talk to Vasaly?

Mr. OSBORN. Because I assumed, I had every right to assume, that Mr. Kuhn and Mr. Security Officer No. 2 and Mr. Security Officer No. 1, in preparing this, would talk to Mr. Vasaly, as they talked to Mr. Sayle.

Mr. NEDZI. That doesn't square with what you just said a moment ago, that you want to be sure you give the Director all of the facts and want everything to be fair and square. You have individuals here who are saying things with which you disagree.

As a matter of fact, you do not make any effort to go behind what they have testified to. You do not interview people mentioned in the memoranda. You call that presenting the Director with all the facts?

Mr. OSBORN. Sir, I am used to using my staff efficiently. I cannot investigate everything that goes on in my office.

Mr. NEDZI. Nobody is expecting you to investigate everything, but don't you realize the sensitivity of this problem?

Mr. OSBORN. I certainly do. This is why I had this prepared and presented to the Director.

Mr. NEDZI. Mr. Osborn, do you feel you are really doing your job?

Mr. OSBORN. Mr. Chairman, I feel I am really doing my job when I told Mr. Kuhn that "I want you to get to the bottom of this. I want you to get all the facts and then I don't want any more hidden things. I want you to talk to anybody who can possibly know about this."

Mr. Kuhn is a responsible executive. He has been in the Agency for some time.

He is a GS-16 and I have every confidence in him.

Mr. NEDZI. Suppose Kuhn went down and asked Mr. Sayle or somebody else to do it and it trickled down? Don't you think in a matter of this sensitivity you have an obligation to dig into it yourself?

Mr. OSBORN. I can tell you this, and this is the second time I have appeared before you, Mr. Chairman, you can bet your sweet dollar if it ever happens again I would do it personally.

Mr. NEDZI. This is a personal observation but I hope it does not happen again.

Mr. OSBORN. So do I.

Mr. NEDZI. In terms of your appearance before this subcommittee, I think you have done irreparable damage to the Agency through this kind of shoddy work.

Mr. OSBORN. I am sorry you feel that way.

Mr. NEDZI. In your affidavit you described apparently Mr. Pennington as an intermittent source.

Mr. OSBORN. That is right.

Mr. NEDZI. The fact is that he was on a regular retainer with the Agency, was he not?

Mr. OSBORN. He wasn't under a contract. It was an oral agreement.

Mr. NEDZI. He was being paid regularly.

Mr. OSBORN. Being paid regularly when he gave us information.

Mr. NEDZI. There was not a fixed amount he received monthly?

Mr. OSBORN. I think he was generally paid about \$200 to \$250 a month. He usually reported to us pretty frequently—not in recent years.

Mr. NEDZI. Was he paid regularly? How was he paid?

Mr. OSBORN. Paid, I would imagine, by sterile check, a check which could not be traced to the Government.

Mr. NEDZI. On a regular basis?

Mr. OSBORN. I think so.

Mr. MELVIN PRICE. He was under contract. Item 10 explains the matter.

Mr. BRAY. It says a salary of \$250 a month.

Mr. OSBORN. All right, then. I didn't understand that.

Mr. NEDZI. Further questions?

Mr. BRAY. Some time ago there was an instance of unsigned letters sent, information all turned over to us. Who was that? Were those letters to Gaynor?

Mr. OSBORN. The first letter, sir, which was covered in the affidavit, which the chairman apparently is reading now, was to Mr. Helms. The remaining letters were to Mr. Gaynor.

Mr. BRAY. Was it determined who sent those letters?

Mr. OSBORN. We believe, it is my conviction, it was Mr. McCord because I recognized his handwriting.

Mr. BRAY. Sent those letters to Mr. Gaynor except the first one?

Mr. OSBORN. That is right.

Mr. BRAY. Gaynor was at that time with the CIA?

Mr. OSBORN. Yes, he was Chief of the Security Research Staff.

Mr. BRAY. Since then he has left the CIA?

Mr. OSBORN. Yes, he retired last year.

Mr. BRAY. I thought that is what it was.

I remember Gaynor figured in it. He was recipient of the letters.

Mr. OSBORN. Right.

I since reorganized my office and disbanded that staff.

Mr. HÉBERT. I want to pursue what Mr. Nedzi said. You have two men named in this affidavit which you signed. One man is Gaynor.

Mr. OSBORN. Right.

Mr. HÉBERT. The other man is Sayle, and also Vasaly.

Mr. OSBORN. Yes.

Mr. HÉBERT. They claim in this memorandum prepared by you for your signature that they talked to you.

Mr. OSBORN. I believe Mr. Sayle claims it.

Mr. HÉBERT. Sayle and Gaynor.

Mr. OSBORN. I think Mr. Sayle claimed he talked to Mr. Gaynor and Mr. Gaynor said that Mr. Sayle had talked to me.

Mr. HÉBERT. In your position as head of Security, in such a sensitive agency as CIA, and having been before this committee before, I just cannot understand the reaction of a man who punches you in the jaw and you will punch him back. Why did you send for these people?

Maybe they made an error. Maybe they didn't talk to you, and after you talked to them you find out, or maybe they convince you. This is fundamental. This is almost childish.

Mr. OSBORN. I considered talking to Mr. Gaynor.

Mr. HÉBERT. But you didn't.

Mr. OSBORN. I didn't talk to Mr. Gaynor.

Mr. HÉBERT. Why?

Mr. OSBORN. At the advice of Mr. John Warner, the General Counsel of the Agency.

Mr. NEDZI. When was that advice given to you?

Mr. OSBORN. That advice was given to me Friday afternoon, late.

Mr. NEDZI. After the memorandum was prepared.

Mr. OSBORN. This was approved by Mr. Colby, because we felt there might be some idea of collusion or something.

Mr. COLBY. Since Mr. Gaynor had left the Agency, Mr. Chairman, we believed it better, rather than the Agency doing the investigation of Mr. Gaynor's statements, that the matter be referred to the Special Prosecutor. We did so do. It was after the memorandum.

Mr. HÉBERT. I am trying to clear it up. This would not have been cleared up if I had not asked the question.

How about Sayle?

Mr. OSBORN. I perhaps should have talked to Mr. Sayle.

Mr. HÉBERT. Did you get the same instructions on Sayle?

Mr. OSBORN. No, sir.

Mr. HÉBERT. Then you used your own judgment on that?

Mr. OSBORN. I depended on Mr. Kuhn.

Mr. HÉBERT. Who?

Mr. OSBORN. Mr. Steve Kuhn and his staff to question Sayle on this as the basis of their preparation of this memorandum.

Mr. HÉBERT. But Sayle did mention you.

Mr. OSBORN. Sayle said he had talked to Gaynor and Gaynor had said that Gaynor had talked to me. Mr. Sayle never said he talked to me.

Mr. HÉBERT. I am trying to clear it up. I am not trying to prosecute you. I am trying to get it all in line.

Mr. NEDZI. Let's read the sentence here. The sentence states, "Mr. Sayle also alleged that the details were known to the undersigned." This is a memorandum which you signed.

Mr. HÉBERT. That is different from what he said.

Mr. OSBORN. He alleged that the details were known to the undersigned. He alleged this in a conversation with Mr. Security Officer No. 1. My interpretation of this is that Mr. Sayle said Mr. Gaynor had told me.

Mr. BRAY. Maybe I am looking at this wrong, but I believe that in the Department if there is a rumor about what somebody said and somebody else is involved, the best thing to do is to get the Inspector General to make the investigation because nothing can be more confusing than somebody saying, "You said this about me." It would be chaos.

I would say that the proper thing was as quickly as possible to get to the Inspector General. These counterallegations and counterallegations within the Department can be disastrous. I would think. I think sending it to the Inspector General was the proper thing to do, and the sooner the better.

Mr. OSBORN. I agree because Mr. Sayle currently is my employee.

I think it is much more objective and honest to have some outside source.

Mr. BRAY. I think the quicker you get to a disinterested responsible party to go into the details the better off you are.

You could sure get into a lot of trouble to say that somebody said that somebody said that somebody said, particularly in an organization like this.

Mr. OSBORN. Mr. Colby's instructions to Mr. Richards in working with Mr. Kuhn, Mr. Security Officer No. 1, and Mr. Security Officer No. 2 intensively over the past 3 or 4 months, were——

Mr. BRAY. What is the Inspector General's name?

Mr. OSBORN. Don Chamberlain. One of his Assistant Inspectors concerned with this is Mr. John Richards.

Mr. NEDZI. In your affidavit of May 23 of last year you stated, "No effort was made to solicit information from him."—the intimate source—"about Mr. McCord." Why was no effort made to solicit information?

Mr. OSBORN. Because Mr. McCord was then arrested and under indictment. I felt if anybody ought to talk to Mr. Pennington about Mr. McCord it ought to be the FBI, and not the Agency.

Mr. NEDZI. Did you tell them?

Mr. OSBORN. I issued very strong instructions.

Mr. NEDZI. Did you tell the FBI about Pennington?

Mr. OSBORN. No, sir, we did not.

Mr. NEDZI. How can you expect them to interview him about McCord?

Mr. OSBORN. In retrospect perhaps we should have just thrown to the winds the source and let the Bureau have him.

Mr. NEDZI. What is this?

Mr. OSBORN. In retrospect we perhaps should have forgotten the anonymity of source and continued value to us and let the Bureau have him.

Mr. NEDZI. Did you discuss this problem with anybody?

Mr. OSBORN. No, sir, I do not believe I did.

Mr. NEDZI. Who is your immediate superior?

Mr. OSBORN. At the current time Mr. Harold Brownman.

Mr. NEDZI. Did you ever discuss these problems with Mr. [deleted]?

Mr. OSBORN. No, sir.

Mr. NEDZI. Any further questions?

[No response.]

Mr. OSBORN. I had no reason to believe Mr. Pennington's relationship with Mr. McCord was anything other than friendship. They had been friends a number of years.

Mr. NEDZI. How can you say that if you didn't talk to him?

Mr. OSBORN. Because I have been told this.

Ever since I have been director of security. I was informed McCord and Pennington were close personal friends.

What Pennington was telling Mr. Gaynor and Mr. Vasaly was that Ruth McCord was in dire straits, needed money, that Pennington had loaned her some money, this type of thing, that he was helping out, that he was going over to see her, trying to console her, guide her, advise her.

I had no reason to believe that Pennington was in any way involved in the Watergate affair. I have no real reason to believe that he is now.

Mr. NEDZI. You do not?

Mr. OSBORN. No, sir.

Of course, I do not know what he did in McCord's house.

Mr. SLATINSHEK. Who is the next level of responsibility in your office, Mr. Kuhn?

Mr. OSBORN. Mr. Kuhn.

Mr. SLATINSHEK. I would suggest we call him.

Mr. NEDZI. Do you solemnly swear to tell the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF STEPHEN L. KUHN

Mr. KUHN. Yes, sir.

Mr. NEDZI. What is your full name?

Mr. KUHN. Stephen L. Kuhn.

Mr. NEDZI. Mr. Kuhn, you are aware that the subcommittee is reviewing the most recent development in the Watergate situation. Could you tell us when and how you learned about this matter first?

Mr. KUHN. You have to go back further. On June 17, 1972 was the Watergate break-in. I was on leave on June 16 for a few weeks. However, I was called in Saturday evening when we got the word about the Watergate incident. I went on leave.

I came back from leave, back to my job. In the meantime there was a lot of paperwork being done as to who McCord was and who Barker was and Mr. Leo Dunn, in my office, was working on it, as was Security Officer No. 1, who is outside waiting.

Sometime in August 1972 Security Officer No. 1 tells me what he had heard or picked up from Mr. Ed Sayle regarding Pennington's alleged report to Paul Gaynor regarding the fact that he had gone to the McCord home.

I told Security Officer No. 1 to make that a matter of record, put it on paper.

Mr. NEDZI. This was in August 1972?

Mr. KUHN. Yes, sir.

I don't care what the source was here, but to put it on paper so it is in the file.

At that time I assumed that this was known to the director of security.

Mr. NEDZI. Why did you assume that?

Mr. KUHN. Because the word was passed by Gaynor to the director of security.

Mr. SLATINSHEK. Are you not Mr. Gaynor's superior?

Mr. KUHN. No, sir.

Mr. SLATINSHEK. What is your relationship to Mr. Osborn officially?

Mr. OSBORN. We go back to 1972, then. Let's go back to 1972 in August. We have been reorganized. In August 1972 Osborn was director of security. A man named Ermal Geiss was deputy director of security. Then we had three major breakdowns in the office. One of them was called a personnel security directorate which handled the staff employees, clearances and problems. I was heading that particular group.

We had another group which handled the investigative side of the job. The third group handled the physical and technical security side.

Then we had what we used to call the security research staff, a staff headed by Paul Gaynor.

Gaynor had direct access to Osborn on his own command. I dealt with him on personnel security cases. The physical security man had direct access to Osborn on his problems and the investigations side on their problems. This is what the scene was, then, in August 1972.

When I was on leave, after the Watergate break-in, Leo Dunn, who was acting in my place even before that—I had been at Harvard 3 or 4 months attending school—Leo Dunn was doing the work along with Security Officer No. 1.

My involvement with actual Watergate was very minimal until about 6 weeks ago. In August of 1972 people who were doing the actual work, collating things for Security Officer No. 1, a man named Sydney Stembridge, Mr. Geiss, period.

Mr. Dunn, who was my deputy for a while, then moved to a different job. He did a lot of work for Mr. Colby on the Watergate working with Security Officer No. 1, about which I had no information. I was not involved with that material at all.

I got back into the case to some degree the following May or early June when I felt that things were sort of uncoordinated in our office, so I requested Osborn's permission to look at the stuff together so we would know what is going on.

Mr. NEDZI. This was last May or June?

Mr. KUHN. I think it was May, probably, I was told. So I had Security Officer No. 1 and somebody else working with him, plus my secretaries, to get the stuff into some kind of order.

Mr. BRAY. What stuff do you mean?

Mr. KUHN. We were documenting files.

Mr. BRAY. Regarding Watergate?

Mr. KUHN. Clipping newspapers.

Mr. BRAY. Regarding Watergate?

Mr. KUHN. Yes, sir, clipping the Post, Star, New York Times, trying to get some semblance of this day by day of picking up papers. There were 2 weeks of real effort on the part of Security Officer No. 1 and the girls. There was some order, I thought, to the files.

I have never myself gone through these files. I was busy working my own job, handling clearances, for staff personnel and other matters relating to staff personnel problems.

In September of 1973—no, in July or August of 1973—we reorganized the Security Office. They combined what I had as a personnel security group with the investigations group. I became deputy in the new organization. They abolished the security research staff altogether, just wiped it out. I was then ordered to find out what the investigations side of the office was like, to visit our various field offices. Beginning in September I spent most of my time visiting the field offices, learning their procedures, learning their method of organization, method of reporting and investigations.

I came back from these trips—I visited Boston, Chicago, New York, Los Angeles, and San Francisco.

I came back from those trips in, say, November. I then got back into the actual Watergate this year primarily on the Agency recording system. I was working with a man named John Richards, of the Inspector General's staff. John and I spent days and days trying to find out what the system was like.

I am fighting the flu, incidentally. I have been sick a couple days. Well, last week—no, a week ago last Friday—John and I thought we had pretty well got what we thought was the story on how the recordings were made, what the procedures were, and working with Lyle Miller and John we tried to do a memorandum to go to Mr. Colby—to the best of our knowledge being laymen that this is how the damn system works.

The holiday weekend I was down with the bug, the flu. I was off on that Tuesday following the birthday. Apparently a draft had come down from Mr. Miller's office. It had gone down to Security Officer No. 1 and Security Officer No. 2. One paragraph stated "The Agency has forwarded every possible item regarding Watergate."

When I got back to work on Wednesday they told me that they don't think that this item of Pennington to Gaynor, to Sayle, to Security Officer No. 1 had even been reported outward.

Now, we did not know——

Mr. NEDZI. Who told you that?

Mr. KUHN. Security Officer No. 1. We did not know what had gone forward or what had gone forward from the Agency, so when I got this word Wednesday morning I went to see Osborn and said, "We have a problem here because the two guys who know the case say something is amiss here, that this may not have gone forward."

Mr. NEDZI. What did Osborn say?

Mr. KUHN. He said he thought it had gone forward, look in his affidavit. Well, we pulled his affidavit and there was no mention of this particular episode.

So, I called a meeting then. I had a meeting of Scott Breckenridge, John Richards, John Morrison, Security Officer No. 1, and Security Officer No. 2, and we sat down and said, "Here is a potential problem."

Mr. NEDZI. Osborn told you that it had gone forward.

Mr. KUHN. He thought it had gone forward.

Mr. NEDZI. Did he express any surprise about the information?

Mr. KUHN. Well, I think he did, yes.

Mr. NEDZI. Did he indicate to you whether he had heard this information before?

Mr. KUHN. He told me he never heard of it before.

Mr. NEDZI. Then how could he think it went forward?

Mr. KUHN. I think in my explanation to him that there is a problem on Pennington here, he said, "Check my affidavit." I said, "This is the part where Pennington is alleged to have told Gaynor. Gaynor to Sayle. and Sayle to Security Officer No. 1, something about the documents."

Mr. NEDZI. His first response to you was, "Check my affidavit?"

Mr. KUHN. Yes, sir.

Mr. NEDZI. He did not say anything else?

Mr. KUHN. I said, "This regards this part, Mr. Osborn." He said, "I don't remember ever hearing this." He cannot recall having been told about this information.

Mr. NEDZI. When did he say that?

Mr. KUHN. At that meeting on Wednesday morning.

Mr. NEDZI. Do you have any explanation as to why he would say "Check my affidavit" first?

Mr. KUHN. No, sir.

Mr. NEDZI. Those were his first words.

Mr. KUHN. I am trying to recollect Wednesday morning, the day I came back in, to know the exact sequence of what he said to me, that is difficult.

Mr. NEDZI. It is quite important as to what he said to you and the sequence.

Mr. KUHN. I want to try to pick my words carefully. I had with me the draft of the memorandum regarding the agency tapes. I saw paragraph 2, a short paragraph.

I said, "There is a problem here because of Security Officer No. 1 and Security Officer No. 2. They don't think the information regarding Pennington has gone forward."

He said, "Check my affidavit."

I said, "Wait a minute. This is in regard to Pennington's remark to Gaynor, who in turn told Sayle, who in turn told Security Officer No. 1 about Pennington allegedly having gone to McCord's home and looked for documents or something."

He said, "Then look into it."

So I called a meeting, then, of these people. We briefed them, and they said they never had heard about this before.

Mr. NEDZI. Who was at the meeting?

Mr. KUHN. John Richards, who is Mr. Colby's man on Watergate.

Mr. COLBY. One of the Inspector General's staff.

Mr. KUHN. John Morrison.

Mr. COLBY. One of our legal counsel.

Mr. KUHN. Security Officer No. 1, Security Officer No. 2, myself.

We explained to them—

Mr. NEDZI. Was Mr. Osborn there?

Mr. KUHN. No, sir.

Mr. NEDZI. None of them said they had ever heard of this particular matter?

Mr. KUHN. People involved where John Richards and Scott Breckenridge. They had not heard of it. So I then had Mr. Sayle come up. We interviewed Mr. Sayle as to what—"Go back to this time in June 1973 or so, and can you recall what happened?"

Then we had Lou Vasaly come up. Lou gave us other information which is in the file here.

Then we asked a woman called Ethel Mendoza.

Mr. NEDZI. What kind of information did Mr. Vasaly give you?

Mr. KUHN. Well, up until Wednesday, that would be February 20, all that we had was the fact that Gaynor allegedly had told Security Officer No. 1 about his part of the Pennington-McCord thing. We found out on Wednesday that Pennington apparently told Lou Vasaly that he had checked McCord's home looking for documents.

Mr. NEDZI. When did he tell Vasaly that?

Mr. KUHN. I don't know, sir. So we talked to Ethel Mendoza. Ethel said she recalled Gaynor telling her about Gaynor's talk with Pennington.

Mr. NEDZI. Were there any dates?

Mr. KUHN. No, sir. This is when the thing really began to become a real cauldron.

Mr. BRAY. What day was that?

Mr. KUHN. Last Wednesday.

So then we proposed to talk to Mr. Gaynor. We briefed Mr. Warner, and so on, first. We finally got to see John Warner——

Mr. COLBY. Our legal counsel.

Mr. KUHN. I was there, Warner, Security Officer No. 1, Security Officer No. 2, John Richards, and it was then decided to do a memorandum for Mr. Colby outlining to him as far as we knew what the story was.

Mr. NEDZI. Whose decision was that?

Mr. KUHN. Mr. Warner's suggestion to do it on paper and not to brief the Director verbally.

I told Security Officer No. 2 and I told Security Officer No. 1 to do a memorandum as to the whole background. The memo was rough drafted on Thursday. On Friday I was sick again. I was home and got a call from Mr. Richards saying the memo has been signed up by Osborn. I said "It should go to Mr. Colby first prior to any other distribution."

I didn't want a copy of this going to Mr. Warner or Mr. Carey before Colby saw it. So we agreed we would send to Miss Pindar the entire package and let Mr. Colby decide the distribution.

Mr. NEDZI. It was your decision to send this up to Mr. Colby?

Mr. KUHN. Mr. Richards and I decided.

The paper was for the purpose of briefing Mr. Colby on the entire problem. Again I was on leave Friday. I was sick Friday. John and I talked about this on the telephone. We both felt why don't we get this upstairs to Mr. Colby with his copy plus the copies destined for the Inspector General, Mr. Warner, and Mr. Carey. This was done Friday afternoon, as I recall.

Mr. NEDZI. Why didn't you work through Mr. Osborn?

Mr. KUHN. Mr. Osborn already had signed the memorandum.

Mr. NEDZI. Did he leave any instruction as to whom it should go?

Mr. KUHN. I presume he meant it to go to Mr. Colby. It was addressed to Mr. Colby.

Mr. NEDZI. I am trying to find out who made the decision to send this to Mr. Colby. You said you decided. Where does Osborn fit in?

Mr. KUHN. The paper was destined for a briefing for Mr. Colby. On Friday, I understand, Mr. Osborn had other commitments in the afternoon, so after Osborn had signed the paper John and I felt—well, let's get the —— thing up there as soon as possible. It was already signed out by Osborn.

Mr. NEDZI. When did he sign it?

Mr. KUHN. Friday sometime. It was not finished Thursday evening.

Mr. NEDZI. Was there any sense of urgency in your meeting with respect to getting this information to Mr. Colby?

Mr. KUHN. Yes.

Mr. NEDZI. Why did it take until Friday?

Mr. KUHN. We wanted to get the facts first. We had been trying to get the facts even on the recording records, trying to find out exactly what happened.

Mr. NEDZI. What did you find out between Wednesday and Friday morning that is not in this affidavit, or that is in this affidavit?

Mr. KUHN. They had to go back to the file and find out what the sequence of events was, Security Officer No. 1 and Security Officer No. 2, for example. We were hoping to talk to Mr. Gaynor before going to Mr. Colby. Gaynor was the primary source. He was the one who allegedly had gotten this information from Pennington.

Now, when we called in Lou Vasaly on Wednesday he tells us that he had received word from Pennington regarding going to McCord's house. This was all brand new, brand new to me, brand new to Security Officer No. 1, brand new to Security Officer No. 2.

Mr. NEDZI. Was it brand new to Osborn?

Mr. KUHN. Yes, apparently so. I did not talk to Osborn because I was off on leave Friday.

Mr. NEDZI. Questions?

Mr. MELVIN PRICE. I have no questions.

Mr. SLATINSHEK. How many sources of information do you have in your records relating to this matter we are discussing today?

Mr. KUHN. Right now, again, allegedly Gaynor—

Mr. SLATINSHEK. I don't mean the individuals. I have reference to pieces of paper which are in the record.

Mr. KUHN. I do not know what we have right now, sir.

Mr. SLATINSHEK. You presumably gathered all the sources of information, all the memoranda that related to this in order to prepare this memorandum.

Mr. KUHN. Mr. Security Officer No. 1 and Mr. Security Officer No. 2 can better answer that question.

Mr. SLATINSHEK. You do not know of your personal knowledge what pieces of paper are involved?

Mr. KUHN. No, sir.

I could not swear—there is a paper in the file. I told Security Officer No. 1 to document this thing back in August 1972.

Mr. SLATINSHEK. You told Security Officer No. 1 to document this back in August 1972, and you are aware of that?

Mr. KUHN. Yes.

Mr. NEDZI. Did you make a search for it?

Mr. KUHN. Security Officer No. 1 and Security Officer No. 2 were aware of it.

I assumed that this had gone forward. I assumed when this was given to Security Officer No. 1 the word was that this had been passed to Osborn. I assumed from that that he in turn had passed this forward. This is when Security Officer No. 2 and Security Officer No. 1 told me on Wednesday that they don't think it went forward.

This is when I began the wave here to bring this to a climax.

Mr. SLATINSHEK. I am not being critical, but if you used that sort of premise I would expect no one would come forward with any information in the Agency because they would all presume someone else had sent it forward. I am speaking now of the request made by Mr. Schlesinger for employees of the Agency to come forward to report to him personally.

Therefore, I ask a rhetorical question, and direct it to Mr. Colby—how can we be sure there are not hundreds of incidents or items of information that might be buried in the Agency right now in the same fashion as this one? It is a frightening possibility. It is a good question.

Mr. HOGAN. Were you not impressed with the Schlesinger memo in coming forward with every shred of information, not only report it and "Come to me personally," and his secretary's telephone number was put in that memorandum, and almost at every daily conference it was testified that this matter was reiterated and reiterated and reiterated? Yet you assumed this went forward?

Mr. KUHN. Let's go back now to the time this occurred. Again I was not involved in any Watergate investigation. I did know that Leo Dunn was doing a lot of work with the files for a period of some time about which we knew nothing.

I had no idea what had been sent forward. My first real involvement was to do the investigation with John Richards on this tape recording problem.

Mr. SLATINSHEK. For the record, you indicated earlier Mr. Dunn and Mr. Security Officer No. 1 were assigned the responsibility within your office, but working also for Mr. Colby—

Mr. KUHN. No.

Mr. Security Officer No. 1 was not working with Mr. Colby.

Mr. SLATINSHEK. Let me put it this way, then—Mr. Dunn and Mr. Security Officer No. 1 in your office were assigned the responsibility of pulling together all the pieces of Watergate to make some sense out of the information the Agency had.

Mr. KUHN. Right.

Mr. SLATINSHEK. Then certainly in theory, at least, Mr. Dunn and Mr. Security Officer No. 1 would have been aware of this information and I would assume, therefore, they would also be aware of what had gone forward, for instance, to this committee and would have known the absence of this information.

Mr. KUHN. I do not think so.

Mr. SLATINSHEK. Why not?

Mr. KUHN. I don't think—Mr. Security Officer No. 1 did not know what had gone to this committee.

Mr. SLATINSHEK. How could your office have said in this memorandum, when this memorandum had been prepared to come up to the Hill, that all the information relating to the Watergate matter had been transmitted to us, and then you balked when you said, "I don't think this information has gone forward." How did you know that?

Mr. KUHN. This is Mr. Security Officer No. 1 and Mr. Security Officer No. 2 telling me now—they do not think this went forward.

Mr. SLATINSHEK. They had been aware of this, then?

Mr. KUHN. They were working on the files all the time, yes. Again we assumed—again I assumed this because all the time had gone by in which others were working on the Watergate material, things about which we had no knowledge.

I assumed this had been forwarded to other channels. I was not aware of Pennington, for example, until August of 1972.

Mr. SLATINSHEK. How Dunn and Security Officer No. 1 should know, would have known, and would have been conscious of what had gone forward.

Mr. KUHN. Mr. Dunn more than Mr. Security Officer No. 1. Mr. Security Officer No. 1 was a man who did the dirty work, pulling the files, writing memorandums, collating material I do not think Mr.

Security Office No. 1 ever talked to Mr. Colby in this whole thing. He is the journeyman, the worker.

Mr. BRAY. I was absent a few moments. How do you know that the information did not go forward and it was lost someplace up there, so to speak?

Did you later find it and find files had not gone forward?

Mr. KUHN. We had no indication in our file that it had either gone forward or not gone forward. All we had was this memorandum—

Mr. BRAY. You do not know yet what happened, whether it might have gone forward?

Mr. KUHN. I don't know, sir.

However, as of Wednesday, the 20th of February, after we had a meeting with Scott Breckenridge and John Richards and John Morrison, it came out clear they had never heard about this item.

At that time I again assumed this had not gone forward, you see.

Mr. BRAY. That is probably a good assumption but yet it is not a certainty.

Mr. KUHN. That is right.

Mr. BRAY. They might have forwarded it without assimilating it and digesting it themselves. That is in the realm of possibility.

Mr. KUHN. Possibly.

Mr. BRAY. It could have been lost. We all know papers get lost.

Mr. KUHN. The man who was really working on those papers was Mr. Dunn for a long period of time. I was not involved.

Trying to pinpoint this material is difficult, to say what happened. Time has gone by.

Mr. BRAY. I wanted that in the record. I do not suppose anyone has ever been in a business, the Army, or even a law office but what something happens, something you think went out that didn't.

Mr. NEDZI. When you first learned of this in August 1972 did you discuss it with anybody?

Mr. KUHN. I told Security Officer No. 1 to put it on record. The word I got was that this was known to Osborn. This was a cozy deal. "Mr. Osborn knows it, so that is it."

Mr. NEDZI. Security Officer No. 1 told you that?

Mr. KUHN. Yes; again, Security Officer No. 1 is basing his report on what Sayle told him, and Sayle says Gaynor told Sayle.

Mr. NEDZI. I want to know what Security Officer No. 1 told you. He told you that it is known to Osborn.

Mr. KUHN. Per Ed Sayle.

Mr. NEDZI. That Sayle told Osborn or Security No. 1 told Osborn?

Mr. KUHN. Sayle told Security Officer No. 1 that Gaynor—if I am Ed Sayle, for example, and you are Security Officer No. 1. I said, "Security Officer No. 1, this was passed to me by Gaynor and Osborn knows it."

Mr. NEDZI. Security Officer No. 1 did not tell you that he told him?

Mr. KUHN. Security Officer No. 1 did not tell Osborn. Mr. Security Officer No. 1 and Mr. Security Officer No. 2 are very industrious men, and when they got this germ in their minds, something is not quite right here. They very rightly told me on that Wednesday that something may be amiss. This is why we began to unravel the whole piece.

It is my impression that Sayle told this to Security Officer No. 1 in June.

Mr. BRAY. Which June?

Mr. KUHN. 1972.

Mr. NEDZI. Right after it happened?

Mr. KUHN. In August is when Security Officer No. 1 tells me. I said, "Security Officer No. 1, put this on paper."

Mr. BRAY. August 1972.

Mr. KUHN. Yes.

Mr. NEDZI. Can you recall, Mr. Kuhn, why this arose in your discussion with Security Officer No. 1?

Mr. KUHN. Security Officer No. 1 tells me that it arose because he had gotten a request from the FBI to run a trace on a man named Pennington who was a former supervisor of McCord in the Agency.

Mr. NEDZI. Was Pennington ever a supervisor of McCord?

Mr. KUHN. No, sir, then Security Officer No. 1 says, "By the way, this is what Ed Sayle told me back in June." I said, "Put it on paper, Security Officer No. 1. Let's get it on a document."

Mr. SLATINSHEK. Did you handle the request from the FBI regarding the Pennington inquiry?

Mr. KUHN. I was asked to supply the FBI on a PHS on a Cecil Harold Pennington, who was a former employee of ours. Mr. Security Officer No. 1 can give you better firsthand knowledge of the FBI request.

Mr. SLATINSHEK. You were not requested to search the files for a Pennington, period?

Mr. KUHN. It came with the name——

Mr. SLATINSHEK. A specific name, Cecil Pennington.

Mr. KUHN. A Pennington who was a former supervisor of Jim McCord, as I recall it. A former supervisor of Jim McCord.

We had a man named Pennington, Cecil Harold Pennington, who was in our Alien Affairs Office. They handle the defectors, visas, and so on.

I don't know whether Cecil ever worked for McCord, with McCord, or vice versa.

Mr. BRAY. This could be the same Pennington we have here that was merely a \$250 a month man. He never was McCord's supervisor, was he?

Mr. KUHN. No, sir.

Mr. BRAY. I want the record clarified.

Mr. MELVIN PRICE. It is a different man.

Mr. BRAY. It has to be.

Mr. KUHN. I was not aware of a Pennington until August of 1972, that there was another Pennington who was a source of Mr. Gaynor's.

Mr. NEDZI. You were not aware of Pennington until after the FBI made its request?

Mr. KUHN. Until after Security Officer No. 1.

Mr. NEDZI. When did the FBI request this?

Mr. KUHN. In August according to Mr. Security Officer No. 1.

Mr. NEDZI. Were you aware of the FBI request for this check?

Mr. KUHN. I was made aware of it because this is when Mr. Security Officer No. 1 briefed me on this other matter of Pennington telling Gaynor.

Mr. NEDZI. Was there any discussion about advising the FBI of this other Pennington?

Mr. KUHN. I do not recall it.

Mr. MELVIN PRICE. You did not know about the other Pennington?

Mr. KUHN. I did not know it until that day. We are so compartmentized I was not aware of who SRS had as sources.

Mr. NEDZI. Let's get the chronology straight.

Did the FBI make its request with respect to Mr. Pennington, a Mr. Pennington, before you found out about Lee Pennington, or after?

Mr. KUHN. This request of the Bureau, according to Security Officer No. 1, caused him to then brief me on what he had picked up from Ed Sayle regarding Lee Pennington.

Mr. NEDZI. Did it occur to anybody that the FBI might have an interest in Lee Pennington and there was some confusion about the description of him? The name is the same.

Mr. KUHN. They came up with pretty much of a Pennington, who was a former supervisor of McCord in the Agency.

Mr. SLATINSHEK. Who were they?

Mr. KUHN. The Bureau.

Mr. NEDZI. It never occurred to anybody they might have been interested in a Lee Pennington?

Mr. KUHN. I am sure it did.

Mr. NEDZI. Why wasn't it given to them?

Mr. KUHN. I don't know.

Mr. NEDZI. Who determined what kind of information was going to the FBI?

Mr. KUHN. Everything from the Bureau was sent to Mr. Osborn and through Mr. Colby.

Mr. COLBY. Everything related to Watergate I looked at. I do not recall seeing this name at all. There may be only a partial explanation, which is that the request for a former supervisor implies a staff member of CIA as distinct from this Mr. Pennington's relationship, which was as an informant.

Mr. NEDZI. This was the incident which provoked the comment about a Lee Pennington. You have the Bureau asking for a Pennington.

Mr. COLBY. I suspect if we had not found the Cecil Pennington at all they might have, but they sent along Cecil Pennington.

Mr. NEDZI. That did not answer the description.

Mr. KUHN. Then they asked for a copy of the personnel history statement on Cecil Pennington. Then Security Officer No. 1 said they came back to him saying, "We know who the guy is," and that was it—no more questions.

Mr. NEDZI. Was there any inhibition about giving the FBI this name because of the kind of work Pennington was doing?

Mr. KUHN. This was a very sensitive source to Mr. Gaynor.

Mr. NEDZI. Who in your office made the decision as to what information was going to go to the FBI?

Mr. KUHN. Mr. Osborn signed all memoranda going to the FBI, anything leaving our office signed by Mr. Osborn, any memorandum.

Mr. SLATINSHEK. Does your office have any responsibility—and I speak of the security office now—for checking background on sources

of information, informants? In other words, your attempt to maintain a file?

Mr. KUHN. Yes.

Mr. SLATINSHEK. Say I have an informant and I am concerned about his reliability. Obviously I exhaust the resources I have available. I would assume you might be utilized in that regard, also, in other words, run a check with you with respect to him. Is that done?

Mr. KUHN. Let me explain what we had here. I saw the Lee Pennington file for the first time last week. Say I am Mr. Gaynor now and I am using, say, Joe Blow as a source. I would conduct my own checks and keep this as quiet as possible.

Mr. SLATINSHEK. You would conduct your own checks but use whatever resources are available to you?

Mr. KUHN. Yes.

Mr. SLATINSHEK. My point is whether your office maintains records of this kind which can be utilized for this purpose. In other words, if I were Mr. Gaynor, a hypothetical situation, or Mr. Vasaly, in this case the case officer, Gaynor turned this man over to Vasaly, so Gaynor was the case officer, using this source of information in order to establish his reliability would I not utilize your files?

Mr. KUHN. My files?

Mr. SLATINSHEK. Yes. Do you maintain files on other than your own employees? I ask for security purposes now.

Mr. KUHN. We maintain files on our staff employees and those people who are of covert interest to the DDO. Those people working on our contracts in various industrial firms, DDS&T, we maintain on our consultants, files on people of interest to the Domestic Contact Division, people who have some interest, some association with us, either by contract or contractors' employees working, say, for STL and such, but not——

Mr. SLATINSHEK. Not on sources of information?

Mr. KUHN. Now, if Mr. Pennington, he was a source for Mr. Gaynor, I am sure Mr. Gaynor had done his own checks with the Bureau or whatever he did. I don't know.

Mr. SLATINSHEK. The purpose of my question is clear. If the FBI had come to you with the name Pennington I would assume you would check whatever files you have, not only your staff files but others.

Mr. KUHN. Except it came in that he was a supervisor of Mr. McCord. This is why they would have checked the staff files.

Mr. NEDZI. Is there anything you can think of today that has not been disclosed?

Mr. KUHN. When this thing hit me Wednesday, you know, about the possible problem here, I talked to Security Officer No. 1 and to Security Officer No. 2. The two guys most wedded in this whole Watergate thing, I asked "Is there anything else you guys have overlooked or glanced at, something buried in those —— files? Is there anything else?" They said no.

I said "Are you sure?"

They said "No."

I must have asked them for 2 days four or five times, "Is there any other —— thing in those files?" They said no.

Mr. NEDZI. That is a phrase I am very familiar with.

Mr. KUHN. You know, when we are working on an Agency recording device, it took us days and days and days of reinterview of the technicians. They are technicians and I am a layman. We wanted to find out exactly what was the procedure. It is difficult.

When this hit me Wednesday I said over and over "Is there anything else?" I said "If there is tell us." They said there is nothing as far as they know in those files, nothing else.

When I was home for the week-end I talked to Security Officer No. 1. I asked, "Security Officer No. 1, is there anything else you can think of?" He said "No."

Coming down this morning I asked "Is there anything else?" He said "No." As far as they know this is the last item.

Mr. NEDZI. And as far as you know?

Mr. KUHN. As far as I know, sir. I have never gone through the Watergate files. I can speak with some authority on the recording system because I have been working on it personally with John Richards.

Mr. NEDZI. Is there anything connected with the Watergate recording system?

Mr. KUHN. I know nothing there. The straw was 1 day when the technician said that I was very confused regarding the recording system, and I was confused. We were doing our best to get the actual truth as we saw it from the two guys, Popachak and Kobliska. They said "This is the way the system worked."

Mr. NEDZI. You had no knowledge as to what kinds of tapes they were?

Mr. KUHN. I had no knowledge of how the system worked until we finished our numerous interviews with the technicians.

Mr. NEDZI. Who destroyed the tapes?

Mr. KUHN. A man named Nick Popachak and Allen Kobliska, two of the technicians assigned to the pit.

Mr. NEDZI. You didn't know what kinds of tapes were destroyed?

Mr. KUHN. No, sir.

Mr. NEDZI. Anything further?

Thank you, Mr. Kuhn.

Do you solemnly swear that the testimony you are about to give this subcommittee is the truth, the whole truth, and nothing but the truth, so help you God?

TESTIMONY OF SECURITY OFFICER NO. 1

Mr. SECURITY OFFICER No. 1. I do.

Mr. NEDZI. Give your name to the reporter, please.

Mr. SECURITY OFFICER No. 1. Security Officer No. 1.

Mr. NEDZI. Mr. Security Officer No. 1, can you tell us when you first became aware of this particular incident we are looking into today?

Mr. SECURITY OFFICER No. 1. The Pennington matter?

Mr. NEDZI. Yes.

Mr. SECURITY OFFICER No. 1. It would have been, I believe, June 22, 1972. There are memorandums, I believe, available indicating the specifics, but it was that date. I was told in very cursory fashion by Mr. Edward Sayle, of our security——

Mr. NEDZI. What detail?

Mr. SECURITY OFFICER No. 1. He told me to the best of my recollection on that particular topic—I don't have the memorandums here so I cannot look at them—that there was—he asked if I knew who Mr. McCord's bookkeeper was. We had been doing some research on people associated with McCord and we had the name of a person just as Al Green. I think we later established this is a Lt. Col. Fred Green. That is who I thought the bookkeeper was.

I was not really supposed to be going to Mr. Sayle except if I had a specific request from Mr. Dunn, Leo J. Dunn, who was handling the Watergate matter at the time as a supervisor in the office of security. I did have a specific request to go into his office at that time, but I pleaded a little ignorance because I was involved in Watergate and I was interested in learning what he might have to pass on by way of scuttlebut, or whatever, chit-chat, in his office.

You see, his office was the office where Mr. McCord had previously worked. I was never told that that was specifically the reason why we were tapped in the personnel security division with this investigation rather than the security research staff. I was under that impression myself. Therefore, I was trying to elicit a little bit of information.

He started to tell me this and said "Is the name Pennington familiar to you?"

I said "No."

He said "Pennington is a very, very sensitive source of the office of security. He is a person the director knows about, that Paul Gaynor knows about."

He went on to say that Mr. Pennington had, as best I can recall he used the term, assigned the office of security at the time of the Watergate incident.

He didn't tell me what assistance had been provided. He said Mr. Gaynor was aware of the incident and Mr. Gaynor had informed Mr. Howard J. Osborn, the director of security.

Since I was——

Mr. NEDZI. Who did the tasking in the office?

Mr. SECURITY OFFICER No. 1. When the incident occurred Mr. Steve Kuhn. He went on leave that week-end. I think he went on leave on Friday, the 16th, at the close of business.

Mr. NEDZI. You said this certain section was covering McCord because of his previously working there. Who was responsible for that kind of assignment of responsibility?

Mr. SECURITY OFFICER No. 1. I don't know for certain. I cannot say. It would have been either Mr. Osborn, who would have made that assignment because of the sensitivity of the situation, because McCord was a former employee, Mr. Hunt was a former employee, and there were all kinds of problems. I think nobody knew what the scope of the problem was at that time. They wanted to keep it tight and handle it at the highest levels. I am not even too sure about the specific directions. Mr. Colby may have provided specific directions at one point, later on, I think. I am not sure about the earlier part.

In any event, Skip Dunn on Monday morning, which would have been June 19, Skip Dunn was conducting interviews of various people

who had known McCord. He was asking me to pull files from the file room. I pulled the files on Mr. McCord. I pulled the files on Mr. Hunt, and so forth. I prepared the memorandums for Mr. Osborn's signature which went forward to the FBI.

Mr. NEDZI. Pennington's name did not come up at that time?

Mr. SECURITY OFFICER No. 1. No, sir, it did not. I got my information from Mr. Sayle, and because it came to me sort of as hearsay and because I was told that the director of security knew the situation—

Mr. NEDZI. Sayle told you that he told the Director?

Mr. SECURITY OFFICER No. 1. No, sir. He told me that Paul Gaynor had told him about it and Paul Gaynor was aware of it and Paul Gaynor had told the director of security. That is my best recollection.

I didn't know in this sense but I was informed by Mr. Sayle that Pennington was a sensitive source. That was the first time I had ever known that. But going on that assumption, that he was telling me the truth, and knowing it was a sensitive matter as it would relate to Watergate, maybe it did or didn't, I don't know, but because Mr. Osborn allegedly was aware of it, and it was something I wasn't supposed to be messing around in, I didn't say anything. I didn't even write a memo about it at the time.

The next time Pennington's name surfaced, again I don't have any notes, was August 18.

Mr. NEDZI. Do you have notes on this?

Mr. SECURITY OFFICER No. 1. I do have memorandums which I prepared at the time; yes, sir. I don't have them here but they are available. Perhaps someone else has them.

I think the one I am looking for is my memorandum dated August 21, 1972. This is the one here.

This indicates on August 18, 1972 a telephone call came in from Arnold L. Parham, of the Alexandria office of the Federal Bureau of Investigation. I checked with Mr. Edward Sayle, security research staff—

Mr. NEDZI. Parham called you?

Mr. SECURITY OFFICER No. 1. No sir, he called the office. The secretary, I believe, took the call and said—I was in the process of walking out of the office. The secretary said "What do you know about a Lee Pennington?"

Immediately I remembered that the Pennington name had been mentioned in June.

Mr. NEDZI. Did he ask what you know about a Lee Pennington?

Mr. SECURITY OFFICER No. 1. Excuse me, it was not Lee Pennington. It was "What do you know about a Pennington?" I think it was a Pennington who used to be McCord's supervisor.

I immediately went, as I said here in the memo, to talk to Mr. Sayle to find out what had happened. He told me at that time—he had not told me before what had happened but he told me at that time—that Mr. Lee Pennington had entered Mr. McCord's office at home destroying any indication of connections between the Agency and Mr. McCord.

This memorandum was written on the 18th when this happened. He was refreshing my memory about a conversation we had had on the 22d, I think, of June.

In burning the documents, I went on to say, the McCord home suffered considerable smoke damage and three rooms had to be repainted.

At that point is where I knew I have to get this thing squared away somewhere, although the Director of Security allegedly already was aware of it. Now I have more information and the Bureau is apparently inquiring about a Pennington.

I tried to contact Mr. Kuhn, who was at that time the Deputy Director of Security. He was in a conference. He couldn't—he didn't know the content of the information. I told him it was extremely important that I get to him immediately.

He said, "Take it up with Mr. Hollis Whittaker, the Assistant Deputy Director of Security, Personnel Security, at that time. I should see him or Ermal Geiss, the Acting Director of Security."

I told Mr. Whittaker about the content of my discussion with Mr. Sayle and he notified Mr. Parham about a Cecil Harold Pennington, who was a former Office of Security employee. He worked in our Alien Affairs Branch in the office. He had retired a number of years before.

Mr. NEDZI. Did you ever talk to Mr. Geiss about this?

Mr. SECURITY OFFICER No. 1. I don't recall talking to Mr. Geiss about it, no, sir. I think at that point it was handled by Mr. Whittaker alone.

Mr. NEDZI. Did you discuss whether the FBI should be apprised of Mr. Lee Pennington?

Mr. SECURITY OFFICER No. 1. I would have to say we probably did and the decision was made by Mr. Whittaker that it should not be disclosed. We didn't know they were working for Lee Pennington, so let us wait and find out what Pennington they are looking for before we give them the whole nine yards on a sensitive source of the Office of Security.

Mr. Whittaker, according to my memo, gave—

Mr. NEDZI. Did it occur to you that perhaps they were looking for Lee Pennington in light of his activity in the McCord matter?

Mr. SECURITY OFFICER No. 1. Well, yes, I would have to say that because when they said "Pennington" on the phone that is why I went to Mr. Sayle.

Mr. Kuhn was the man in charge at that time. I tried to get hold of him and went to Mr. Whittaker. Mr. Whittaker was the man who made the response to the FBI. I think, as a matter of fact, those responses are part of a summary of FBI contacts which we prepared during the summer of 1973, the 25th of July, I believe it was.

According to Mr. Whittaker's memorandum here on August 18, 1972, indicating what he had done, he says on August 18, 1972, Agent Arnold Parham, Federal Bureau of Investigation, called this office and requested the full name of a Pennington, who was supposed to have been Mr. James McCord's supervisor. He also requested his current address because they wanted to interview him.

Then he says, paragraph 2, that a check of the Office of Security indices revealed that there is a retired file on Cecil Harold Pennington, who was a former Office of Security employee.

Then paragraph 3 stated that Mr. Parham was given Mr. Pennington's full name and advised that he had been retired for a number of years. The undersigned also advised him that we have no current

information regarding Mr. Pennington—referring back, now, to Cecil Harold Pennington. This is Hollis H. Whittaker, Assistant Deputy Director of Security.

Mr. NEDZI. To whom did these memos go?

Mr. SECURITY OFFICER No. 1. These are made as memoranda for the record.

Mr. NEDZI. Who read those?

Mr. SECURITY OFFICER No. 1. It would depend. It has been my habit, if I write one, to send them to Mr. Kuhn or whoever was sitting in Mr. Kuhn's place at the time, or to others who were in the chain of command on the way up to Mr. Kuhn.

In this particular case I don't really know who would have read this memo besides myself and Mr. Whittaker. I think you would have to ask him as to whether he advised anybody further up the line on that. That is at that point in time.

I did brief Mr. Kuhn regarding the matter.

Mr. NEDZI. When?

Mr. SECURITY OFFICER No. 1. To the best of my knowledge it would have been as soon as he was available.

Mr. NEDZI. Can you fix a date?

Mr. SECURITY OFFICER No. 1. I cannot fix a date, I think, for certain. I know it wasn't later than the 24th of August. I really feel it was before that.

When I briefed him he said, "Get a memo in the record. Get the thing down, just what happened." I have a memorandum here which I wrote on the 25th of August 1972, at which time—well, the day before that I had gone back to Mr. Sayle because I had remembered something. I don't remember in which of my conversations with him it was, in June or whatever it was. I think it was probably the later conversation in August, on the 18th of August, but something had been mentioned about a secretary of McCord's and her husband who had helped in this activity. I didn't remember their names. I hadn't put that in the memo on the 18th. I was curious enough that I wanted to go back and reconstruct it so that I could put down who these people were, so I did go back to Mr. Sayle and elicited from him the information to the effect that the two people who allegedly had helped Mr. Pennington were Lucille and Donald Sweany. Lucille Sweany was once Mr. McCord's secretary.

I don't have a calendar available for 1972, but I have a feeling the 25th of August was a Saturday. I do remember that I came into the office on Saturday, we wrote a number of memoranda relating to different things, not all Watergate-related. Mr. Kuhn had the duty that Saturday morning, and we went over the whole thing at that time. I think that is when he really gave me the full instructions—"Get this stuff down in memorandum form."

Mr. NEDZI. Was there any question raised about the kinds of documents and what the real reason for this was?

Mr. SECURITY OFFICER No. 1. No, sir.

Mr. NEDZI. What did you think it was? Everybody knew McCord was with the Agency.

Mr. SECURITY OFFICER No. 1. Right. Anything I would say would be speculation except that I was—or I did later become aware—I really

don't remember when I got this information, but I knew that the Office of Personnel, retirement people, had furnished a number of résumés regarding retirees to McCord as possible employees. That is the only thing that I know that was ever sent to him. My speculation would be that it would be that kind of thing that Mr. Pennington would be looking for if he even did do it. Again that is speculation. I simply don't know.

Mr. NEDZI. It would be so many volumes that you would smoke up three rooms doing it?

Mr. SECURITY OFFICER No. 1. I don't know. My comment about smoking up three rooms was my best recollection of what Mr. Sayle told me.

Mr. NEDZI. I don't expect you to know the answer. I can't figure out a theory here of this activity.

Mr. SECURITY OFFICER No. 1. May I put speculation on the record?

Mr. NEDZI. I would like to have your speculation.

Mr. SECURITY OFFICER No. 1. My personal theory about Watergate, and I am absolutely convinced of this at this time knowing everything that I know about Watergate—and it is quite a lot—I am satisfied in my own mind that the Agency is not behind this in any manner whatsoever.

I am satisfied that the Agency didn't have anything to do nor had any foreknowledge of anything Mr. Pennington may have done in this regard.

I know from comments which have been made to me by Ethel Mendoza, formerly with the Security Research Staff, now with the Research Branch in the Clearance Division, that Mr. Pennington and Mr. McCord were very close. I think the statement was made, "like father and son."

I think she also said, I don't have the memo here, I prepared it just a few days ago, I think on the 20th, or the interview was on the 20th of this month, that Mr. Pennington would have gone to almost any length to protect the agency.

I think both Miss Mendoza and Mr. Vasaly said it was their impression that it was Ruth McCord who had asked Pennington to do this.

I know secondhand that there is close family connection. That is the only thing I can suggest as any kind of rationale for that sort of thing.

I do know that when the incident first occurred the office of security people were running around kind of looking at each other asking, "Did you know McCord?" They were trying to avoid the people who knew McCord.

Mr. NEDZI. Do you have a theory as to what they were thinking about in destroying these documents in light of the fact it was common knowledge at that point that McCord had been with the Agency?

Mr. SECURITY OFFICER No. 1. I can only speculate they might have been trying, whoever did it, Pennington, might have been trying to protect the names of other people that McCord had been associated with or names that he had been given by the Agency Office of Personnel.

Mr. NEDZI. Did you discuss this incident with anybody else?

Mr. SECURITY OFFICER No. 1. This particular incident?

Mr. NEDZI. The Pennington matter.

Mr. SECURITY OFFICER No. 1. Yes; sir. You mean since it occurred?

Mr. NEDZI. Yes.

Mr. SECURITY OFFICER No. 1. Besides with Mr. Kuhn and others? Yes, sir.

Mr. NEDZI. With whom?

Mr. SECURITY OFFICER No. 1. I don't recall specifically mentioning it to Mr. Dunn but I did bring it to the attention of Mr. Sidney Stembridge when Mr. Stembridge was transferred in as chief of the Personnel Security Division.

Mr. NEDZI. When was this?

Mr. SECURITY OFFICER No. 1. It would have been over a year ago. I don't recall the exact date. I can find it, though.

Mr. NEDZI. What did he say at that time?

Mr. SECURITY OFFICER No. 1. The practice that I had in briefing people on Watergate matters has been simply to say two things to start with, and I have carried this through every time I have given this background and briefing—No. 1, the Agency is not involved in this in any way, but you will find things in these files that are very sensitive, that the director of security knows about, and that is where it stops. That is where it stops as far as this office is concerned.

I had no way of knowing really that Mr. Osborn had passed this information along. By the same token I had no way of knowing that he had not passed the information along and I didn't become suspicious of that until January of this year.

Mr. NEDZI. Did you have any way of knowing whether he knew about this information?

Mr. SECURITY OFFICER No. 1. No, sir, I had it only from Mr. Sayle that he had been told.

Mr. NEDZI. You never talked about this with Mr. Osborn?

Mr. SECURITY OFFICER No. 1. No, sir, not until last Wednesday when we had brought this matter to the attention of the Inspector General, and Mr. Osborn said at that time that he had not been briefed. That is what I said in my memo.

Mr. NEDZI. Were you aware of Mr. Schlesinger's directive of last year calling upon all employees to disclose whatever information they might possibly know about this matter?

Mr. SECURITY OFFICER No. 1. Yes, sir, and I filed a copy of that in the Watergate materials. In hindsight I should perhaps have been presumptuous enough to have forgotten about presumption and gone directly to the Inspector General. We did do that subsequently, quite a lot subsequently.

Mr. NEDZI. Talking about last week.

Mr. SECURITY OFFICER No. 1. I am talking about last week but there is a little more who struck John before that in the family linen department.

Mr. NEDZI. Can you tell us about that?

Mr. SECURITY OFFICER No. 1. Yes, sir, I think I ought to.

Mr. COLBY. Go ahead.

Mr. SECURITY OFFICER No. 1. If I might, maybe it would make things a little clearer if I read into the record a memorandum that I

prepared yesterday evening and late last night for the Inspector General. I have that here under seal. It goes into all these things, although it does not cover in detail what we have just been discussing in terms of the June business.

This is entitled Memorandum for the Inspector General, Central Intelligence Agency. I would have presented it to Mr. Colby. He may already have seen it.

[The following information was received for the record:]

Memorandum for: The Inspector-General, Central Intelligence Agency.
Subject: The Lee R. Pennington, Jr. Matter.

1. What follows is a somewhat hastily reconstructed version of the subject matter, for your more complete understanding of the facts, particularly surrounding materials submitted under seal to Mr. John Richards of your Office, on the afternoon of 24 February 1974. I anticipate that some of these matters or perhaps all of them may be surfaced in testimony before Congressman Lucien Nedzi and Senator Howard Baker on 25 February 1974.

(a) The details of my first exposures to the Pennington materials are contained in the copies of August 1972 memoranda submitted in the sealed exhibit. The general background of those memoranda as they refer to Mr. Pennington and others is included in Mr. Osborn's memorandum of 22 February 1974 to the Director of Central Intelligence. Copies of that document will no doubt be the basis for Committee questions.

(b) Until approximately 21 January 1974, I had no really conclusive evidence to indicate to me that the Pennington situation was not known to the Director of Security or to the Seventh floor. At that time the evidence became sufficiently conclusive that Mr. Security Officer No. 2 and I decided that we should prepare the sealed exhibits mentioned above. They are dated as of the time of their sealing. There was an earlier incident, however, on about 19 August 1973, or in that general time frame, which I shall discuss first.

(c) The August 1973 incident, I remember, occurred when the Office of Security, along with other Agency components, was asked by Mr. Leo J. Dunn, as I recall, to pull together for Mr. Colby, representative items of Watergate materials which had not been previously sent to the Seventh floor. I reviewed our files and found a number of items which I had prepared as background materials for Mr. Kuhn and Mr. Osborn, and those were assembled and forwarded. The materials are currently under seal with the main body of Watergate materials, and I cannot recall who ultimately signed the transmittal document or who may have seen it besides Mr. Kuhn's secretary, and myself. At the time of this document review, I mentioned the Pennington matter in Mr. Kuhn's Office. I believe it was to Mr. Kuhn personally, but I cannot attest to that for certain because he may have been on leave. The routing slip should give some indication as to who saw the package. I do not recall who made the final decision, but the Pennington material was not included as a part of the package. Although I personally questioned that result, I did at the time believe that Mr. Osborn knew of the Pennington matter, and I did not presume to question to his face his not surfacing it. Nor did I at that time argue the point strongly enough with Mr. Kuhn to achieve a reversal of the decision. I remember expressing my concern to Mr. Kuhn's secretary, who with my help assembled the final package, but as noted, I did not go back to Mr. Kuhn with the problem.

(d) On or about 21 January 1974, Mr. Richards telephoned my Office to say that he and Mr. Lyle Miller, Office of General Counsel, would be down in ten minutes to begin a review of Office of Security Watergate holdings. Mr. Osborn had granted permission for such a review some days before, and permission for Mr. Richards had been reconfirmed after that in a meeting in Mr. Kuhn's Office between Mr. Kuhn, Mr. Richards and myself.

(e) Mr. Richards' call did not, therefore, come as a complete surprise. But it did remind me of my August 1973 reaction to the Pennington decision. I, therefore, reviewed the testimony of Mr. Osborn and Mr. Paul F. Gaynor given in May 1973 regarding the unnamed Office of Security source (who was Mr. Pennington.) I saw there what I felt were contradictions between the testimony and my 1972 memoranda, and telephoned Mr. Kuhn's Office to alert him to that and to Mr. Richards' and Mr. Miller's imminent arrival. Mr. Kuhn was not in, so I spoke

with Mr. Stanton F. Ense, Deputy Director for Personnel Security and Investigations. Mr. Ense spoke with Mr. Osborn, and then called me back a few moments later to say that Mr. Osborn had told him this was covered in his affidavit (of 23 May 1973.) I told Mr. Ense again that I thought not, but I did not go to Mr. Ense's Office to discuss the matter further because I had to leave for another office at the moment. As I left my Office, I passed Messrs. Richards and Miller in the hallway on their way to my office. They waited there for my return, because Mr. Security Officer No. 2, who had been assisting me with the Watergate matter since 29 October 1973, was not in the small office where the main Watergate files were maintained. Upon my return, as I recall, Mr. Security Officer No. 2 had already admitted them to the Office, and they were reviewing and extracting certain documents. I believe these pertained to an attorney named O'Brien and Robert Spencer Oliver, as well as A. J. Woolston-Smith.

(f) At about 1720 hours that afternoon, I spoke personally with Mr. Kuhn at his office, briefing him on the situation and the fact that Mr. Richards was beginning his review of the Watergate files. Mr. Kuhn immediately walked into Mr. Osborn's Office complex, and I remained behind in his office. Mr. Kuhn returned to his office a few moments later, and while putting away files and closing his safes for the night, told me that I was to "Remove the (Pennington) materials from the (Watergate) files and maintain them separately." From the words he used, I took Mr. Kuhn to be passing along instructions which he himself had just received. I left his office immediately, remarking as I turned away from him, "We'll see about that."

(g) I immediately proceeded to Mr. Security Officer No. 2's office, where I informed him of the word I had just received. We discussed the matter and concluded that we simply could not tamper with the files. Having made his decision, we left for home.

(h) The following morning¹ at 0815 hours, Mr. Security Officer No. 2 and I took to Mr. Kuhn's Office the Watergate volume containing the intact Pennington materials, and explained to Mr. Kuhn what we thought would be the consequences of separating pertinent information from the file. Mr. Kuhn then walked into Mr. Ense's Office (which directly adjoins his own), carrying the file volume along with him. I followed, together with Mr. Security Officer No. 2. Mr. Kuhn opened the conversation with Mr. Ense as we followed him into the room, with a comment to the effect that there was a possible problem in regard to Watergate. The four of us then talked at length about the situation, and at that point I took from the file the memoranda I had written in August 1972 which outlined the development of the Pennington matter. These memoranda were passed to Mr. Ense, who then read them for the first time. Mr. Ense stated that there was no question that these materials would have to be included in the Inspector General's review of the Office of Security Watergate holdings, and all four of us agreed. I remember commenting that I didn't cross the Potomac on my way to work in the morning, and that the Agency could do without its own L. Patrick Gray. At the conclusion of this meeting, Mr. Kuhn took the now separate package of Pennington memoranda back into his Office and laid it on his desk, together with the volume in which it was (and still is) kept. As I followed Mr. Kuhn and Mr. Security Officer No. 2 out of Mr. Ense's Office, Mr. Ense motioned me back into the room and asked quietly, "You haven't destroyed any documents have you, Security Officer No. 1?" I replied, "No, and it's not about to happen on my watch." Mr. Ense smiled and remarked, "Good, we Musketeers have to stick together." (This last is a reference to the fact that we share the same *Alma Mater*.) About a half-hour after this meeting, Mr. Security Officer No. 2 retrieved the Pennington memoranda from Mr. Kuhn's desk, and he and I together replaced them in their volume. Nothing was missing from the package.

(i) The meeting with Mr. Ense had included the suggestion by Mr. Security Officer No. 2 that for convenience purposes we place the Watergate volumes in the office adjoining but on the opposite end of Mr. Kuhn's Office. Mr. Ense agreed, and this was done within the next hour.² The volume containing the Pennington materials remained in Mr. Kuhn's Office for the next day or two, but while searching it then for materials in connection with one of Senator Baker's inquiries, Mr. Security Officer No. 2 took the entire file and placed it with the other volumes in the adjoining office.

¹ It was just prior to this meeting with Mr. Kuhn that Mr. Security Officer No. 2 and I Xeroxed the items presented to your Office under seal on 24 February 1974.

² Some of the Watergate material was already in that office.

(j) From 21 January through 19 February 1974, the Office of Security Watergate files remained available for Mr. Richards' review. He did review a number of them, but because of the press of inquiries (including those concerning the handling and destruction of Agency tapes), Mr. Richards did not reach that portion of the files containing the Pennington materials.

(k) As a part of the Agency's "Agency Tapes" package, Mr. Miller included a covering statement to the effect that the Agency had furnished to appropriate Committees all materials in Agency files pertaining to the Watergate matter. This document arrived in the Office of Security for review and concurrence on the morning of 19 February 1974. Mr. Kuhn was on sick leave at the time, and the material was reviewed by me and Mr. Security Officer No. 2. We talked about the all-inclusive nature of Mr. Miller's covering statement in the context of what we now knew of the Pennington matter, and we jointly decided that the covering memorandum did not jibe with the facts and could not go forward with Office of Security approval. I telephoned Mr. Miller at 1700 hours on 19 February, and learned that he had used that phrasing in the memorandum at Mr. Colby's specific request. I alerted Mr. Miller to the fact that there was material in our files which the Inspector General had not reviewed, and Mr. Security Officer No. 2 and I then went immediately to brief Mr. Ense. This and subsequent developments which resulted in the surfacing of the Pennington materials to your Office on 20 February 1974, are the topics of several lengthy memoranda which are being made available separately to your Office.

2. I can attest to the fact that to the best of my knowledge and belief there is now nothing pertinent to Watergate in Office of Security holdings which has not been disclosed to the appropriate Agency officials, and I am confident that your review will substantiate that claim. I can also attest that to my knowledge no Watergate related materials which would be pertinent to such a review by your Office were ever destroyed. I personally have never destroyed any such materials.

Mr. SECURITY OFFICER No. 1. That is a fact and I will swear to it in court.

[Mr. Security Officer No. 1 made the following interpolations during the reading of his statement:]

(1) On page 2: I don't have it stated here, but I had only very casually reviewed items of evidence and testimony that had been coming back from the committees. I had other responsibilities besides Watergate and I was trying to keep current on memorandums, newspaper work, and so on, going on in connection with that, filing of articles, and so forth. I did not have secretarial help sufficient to do that kind of thing for me. I was involved with the hearings, keeping track of what was going on at the hearings. As these items came in from the committees I put them with other testimony and would get to them as I could. I must admit I did not review these items for content, I think, until this time here.

However, knowing what I knew, knowing of my decision in August, I went back and reviewed it.

* * * * *

(3) On page 5: Mr. Kuhn was out of the office sick that day. He wasn't in. We were off conducting a series of interviews on another portion of the Watergate thing, a matter of some interest to Mr. Colby. As we went out to interview this one individual we talked about this as we were driving over. It sounds sort of hackneyed, but we made the decision over a Gifford's Ice Cream cone that we just wouldn't do it.

(4) Page 5: This goes a little backwards from what I have in a memorandum which I wrote.

The first thing I told Mr. Miller, because I didn't want to alert him specifically to what the problem was right at that time until we could

get a final decision on it, was that there was material that we had not seen in the files of the Office of the Inspector General, and there was also material in our files which the Inspector General had not seen. I put his office first rather than ours, a tactical type of error, but done not to alert him specifically to the problem at that time.

(5) Page 5: The question is whether we had these memorandums available here now. I gather the answer is "No." The memorandums were prepared—

Mr. COLBY. If I may ask a point of clarification. Does Richards have all the paper you ever had?

Mr. SECURITY OFFICER No. 1. All the paper we ever had in regard to Pennington?

Mr. COLBY. I guess that is what we are talking about.

Mr. SECURITY OFFICER No. 1. Right now he has possession of all the files. I would say he probably has not seen every single piece of paper we have on Pennington but he has seen the memorandums that I wrote that we put under seal, which brought this whole thing to a head. He now has in his possession all of the memorandums detailing interviews on the 20th of February and detailing my conversation with Lyle Miller the preceding evening and carrying on right through Mr. Osborn's letter which came to the committees on Friday and perhaps some on Saturday.

Mr. COLBY. In other words, there was no destruction of material?

Mr. SECURITY OFFICER No. 1. OK, that is the next point I was going to make.

[End of interpolations to Mr. Security Officer No. 1's memo.]

Mr. NEDZI. May we have as a package all the Pennington information?

Mr. COLBY. You certainly can. I don't really know what it is right now but as soon as we find out what it is you can have it.

Mr. SECURITY OFFICER No. 1. I think the only items you will find there, one a little bit sensitive—

Mr. COLBY. That is all right.

Mr. SECURITY OFFICER No. 1. It has a subject not relating to Pennington or Watergate. Pennington provided us with some information about him and it has his name on it. That is a memorandum dated December 4, 1972, in which Mr. Kuhn passed along to Mr. Vasaly Mr. Osborn's instructions regarding any future contact with Mr. Pennington in relation to McCord.

Mr. COLBY. We do have all the paper. That will be provided to the chairman.

Mr. SECURITY OFFICER No. 1. It was all there yesterday. It was all there Friday night. We did not open any safes. We gave the keys to Mr. Richards yesterday morning, or yesterday afternoon, two keys, and the third key was given to him this morning. Any time we have been in that safe since we have a witness and a memorandum to prove it.

Mr. NEDZI. Did you say Osborn had issued an order that any contacts with Pennington would have to be through him?

Mr. SECURITY OFFICER No. 1. No sir. The memorandum spells it out. I don't have it here. I don't want to necessarily be quoted, but the instructions were to the effect—that is it. This is it right here.

This says, addressed to me, subject is Jackson Anderson, security file number here, 349691, paragraph 1— "I showed the Director of Security the memorandum that Mr. Louis Vasaly, security research staff, received from Mr. Lee Pennington."

I just made a little insert.

Mr. NEDZI. From whom is that?

Mr. SECURITY OFFICER No. 1. Steven Kuhn.

Mr. NEDZI. To whom?

Mr. SECURITY OFFICER No. 1. To me.

Mr. NEDZI. Read the date.

Mr. SECURITY OFFICER No. 1. December 4, 1972.

It says:

I showed the Director of Security the memorandum that Mr. Louis Vasaly, security research staff, received from Mr. Lee Pennington. This memorandum, as you know, speaking to me, came from Mr. James W. McCord, Jr.

At the request of the Director of Security I advised Mr. Vasaly that he is not to ever discuss Mr. McCord with Mr. Pennington nor is he to accept any more items from Mr. Pennington which concern Mr. McCord or which come from Mr. McCord.

Mr. Vasaly agreed and stated that, in all of his future contacts with Mr. Pennington, Mr. Paul F. Gaynor, chief, security research staff, would be present. Signed Steven L. Kuhn.

Mr. BRAY. Why was that sent back? That was in 1972?

Mr. SECURITY OFFICER No. 1. Yes, sir. Let me explain why that came in. I am doing this off the top of my head because I have not gone back and looked at the Jack Anderson tab in the Watergate files. The way the files are indexed those personality volumes are alphabetical and there is a tab for him.

My recollection, however, is that the report to which we are referring here is some materials provided by Mr. McCord—excuse me. Yes, provided by Mr. McCord to Mr. Pennington. Mr. Pennington passed them along to Mr. Vasaly, who was the case officer. They concerned newspaper clippings and other various notes and things that had to do with, I think if I recall correctly, a book that McCord might be writing about Anderson. They were included under the Anderson tab in the Watergate files simply as a matter of background information to flesh out what we knew about Pennington and McCord. We had made a practice of doing this with the principals and other people as names were developed. God knows how many names there are now, but when something has come up that has been new we have just added that.

There are a lot of things in the Watergate files that don't pertain to Watergate at all. There may be a name mentioned here or there, just to be sure we can put everything into context if we received a request from Mr. Colby or some other agency office. We keep a record of these and we will prepare a background memorandum or whatever it might be. That is the purpose of that kind of thing being in those files.

Mr. NEDZI. Did you say McCord furnished this to Pennington?

Mr. SECURITY OFFICER No. 1. Yes, sir; that is my understanding, that McCord gave these notes to Pennington. I could be mistaken on this. If I go back to the file and look at it, I think McCord was out on bail at the time—

Mr. HOGAN. When was that?

Mr. SECURITY OFFICER No. 1. December 1972.

Mr. HOGAN. That he furnished the material?

Mr. SECURITY OFFICER No. 1. I don't know when. The memorandum is dated December 4, 1972. I might be able to tell by going back and looking at the file. I have sort of a half-way recollection of a whole bunch of papers, not very big, like this, and some handwritten notes, and a note from Mr. Vasaly forwarding this thing to me because he knew I was interested in Watergate, and concerned with Pennington and McCord. This went into the Pennington tab on the file and the other materials were put in the Anderson tab. This was just a cross reference type of thing so we could come up with it if necessary.

Mr. NEDZI. That will be made available to us?

Mr. COLBY. Yes, sir.

Mr. SECURITY OFFICER No. 1. The other thing about this memorandum that I know because I heard it in an interview with Mr. Vasaly, and I think this was the interview on the 20th of February, is that Mr. Vasaly does not recall that he was instructed that he should not see Pennington again except with Mr. Gaynor present.

I think he did recall the rest of the instructions, that he was not to accept any more items from Pennington which concerned McCord or which come from McCord, but he did not remember because he has gone out and met with Pennington on his own—not on his own, that is a once a month meeting which was a routine part of his job as a case officer.

Mr. NEDZI. When did Gaynor retire?

Mr. SECURITY OFFICER No. 1. To the best of my recollection it was June 30, 1973. I attended his retirement party, not because I know him well but he was a senior man in the Office of Security and I thought it would be nice to go.

Mr. NEDZI. Vasaly would have had to have contacted Pennington without Gaynor present because—

Mr. SECURITY OFFICER No. 1. Subsequently, yes.

Mr. NEDZI. Because Pennington was not retired or released from employment or contract until December of this year.

Mr. SECURITY OFFICER No. 1. That is right.

Mr. NEDZI. 1973.

Mr. SECURITY OFFICER No. 1. December 1973, that is right.

We have in our Pennington file, as I recall, Pennington tab of the file, a notification to the effect that he was being terminated. That is about the only other piece of information that I can recall that is there. I don't think there is anything else of consequence.

Mr. COLBY. Were there contact reports with him?

Mr. SECURITY OFFICER No. 1. No, sir. According to what I understand from the interview we had with Mr. Vasaly on the 20th he didn't make contact reports. I know for a fact from a very quick review of the Pennington security file that there is no information in there from about sometime in 1971 to 1973.

Mr. Security Officer No. 2 has reviewed that file more carefully than I have and he might be able to supply specific dates. I started from the bottom up, I think it was on Thursday, and went through about six or

seven pages of it, just to try to pin down what the relationship had been. I know that file starts in 1964.

According to Mr. Vasaly there is material prior to that time. I think Mr. Pennington was with the Office of Security something like 18 years as a source.

Mr. HOGAN. What does Mr. Pennington do? What was his regular job in those days? He wasn't working for \$250 a month, I assume.

Mr. SECURITY OFFICER No. 1. I don't know. I have not reviewed his file so I cannot say except from what I understand, and again I could be a little mistaken. From what Mr. Sayle had mentioned in his interview on the 20th and from what Mr. Vasaly said it is my impression, and I have checked this in the phone book—he is 78 years old and I don't know whether he is working—he is listed with the American Security Council in the phone book. We tried to find him. I checked in the phone book and that is the address of the American Security Council and also his listed address in the book. We also have a communication which came in from somebody, I don't know from where exactly, that Vasaly sent down. It was a kind of printed piece of magazine type of folder with his addressograph card. It also gives that address.

Mr. SLATINSHEK. As I recall your memorandum it reflected concern that the Inspector General had not seen this file and had not had access to this information. I am unclear in my own mind as to when this occurred.

Mr. SECURITY OFFICER No. 1. In terms of when I was pretty "dog-gone" sure about it it would have been the 21st of January. The reason I was sure was because we were given what I considered to be instructions to remove this material and separate it, remove it and keep it separate from the file.

Mr. NEDZI. These instructions came from Mr. Kuhn?

Mr. SECURITY OFFICER No. 1. Instructions were passed to me by Mr. Kuhn in the terms I used in my memorandum.

Mr. NEDZI. It is your feeling they came from Mr. Osborn?

Mr. SECURITY OFFICER No. 1. That would be speculation but it was my feeling; yes, sir.

Mr. SLATINSHEK. At January 21, 1974?

Mr. SECURITY OFFICER No. 1. Yes.

Mr. NEDZI. Is there any question that Mr. Kuhn knew about this January 21?

Mr. SECURITY OFFICER No. 1. What do you mean is there any question?

Mr. NEDZI. About the Pennington problem?

Mr. SECURITY OFFICER No. 1. No; there is no question. We had a meeting first in his office, Security Officer No. 2 and I, and then we went into Mr. Ense's office and the four of us talked about it in detail. Mr. Ense said "Absolutely, we have to show this to the Inspector General." I made the comment about not crossing the Potomac and we didn't need an L. Patrick Gray in the Agency.

We walked out then, and I don't know whether he discussed it with Mr. Osborn, whether Mr. Kuhn discussed it with Mr. Osborn after that meeting or not.

Mr. NEDZI. Mr. Security Officer No. 1, let me ask you to speculate again and suggest possible reasons for Mr. Kuhn's and/or Mr. Osborn's behavior in this regard.

Mr. SECURITY OFFICER No. 1. I don't really know unless it would be embarrassment over not having mentioned it earlier. I am speaking in a kind of personal sense. The office was operating under the assumption, and apparently it was an erroneous assumption, or may have been, I don't know, this is the flavor I am getting now, that Mr. Osborn knew about this. The assumption continued that that wouldn't be something he would keep from the Director.

Another assumption, I think, was made that Mr. Dunn had had access over a period of time to these entire files. Access doesn't mean you saw something.

Mr. Kuhn last week, or the week before last, when we were working on the tapes material, said to me—he gave me the combination to his safe. He said "Here it is, Security Officer No. 1. You can look at everything and everything in there." I haven't done it. I was working on tape material and other related materials Mr. Colby asked us to put together, tape logs were in the top drawer of Mr. Kuhn's safe, and that is the only stuff I have begun to look at there. Frankly I am not nearly as familiar as I should be with the tape matter. He wants me to be familiar with it but I have another job besides Watergate and that is a full-time job. I just haven't been able to do it. I have not gotten to it.

I probably would have in time, but I have not. I had the access but didn't see it.

Mr. NEDZI. Can you speculate for our benefit as to why Pennington would be furnishing the Agency material from McCord?

Mr. SECURITY OFFICER No. 1. Why Pennington would finish the Agency material from McCord?

Mr. NEDZI. Yes.

Mr. SECURITY OFFICER No. 1. Speaking particularly of this December thing?

Mr. NEDZI. Yes.

Mr. SECURITY OFFICER No. 1. He was under a verbal contract, as I understand it. I thought perhaps it was a written one but I think Mr. Vasaly says it was just verbal. It was because he knew we were interested in McCord, I think. That would be the only thing.

Mr. NEDZI. Wasn't this material furnished by McCord?

Mr. SECURITY OFFICER No. 1. Yes, sir; McCord to Pennington. As a matter of fact, if I remember correctly. Mr. Vasaly mentioned to me when the first came in—I didn't write the memorandum about this, but I think he mentioned to me that it was done without McCord's knowledge, that Pennington was passing it to us. I recall Mr. Vasaly saying he didn't know about it. Maybe that is in the Anderson tab. If I covered it more completely there I might have said those were the circumstances.

Mr. NEDZI. In other words, McCord gave this to Pennington, not with the intention it be passed on to the Agency?

Mr. SECURITY OFFICER No. 1. I think that may be so. I would have to go back and look at the record.

Mr. NEDZI. I realize that you don't have direct knowledge of this but what would McCord be giving Pennington material for?

Mr. SECURITY OFFICER No. 1. I think just because they are close and their personal interest about him and what he is up to. He is writing a book and letting Lee Pennington, a close friend of his, know what he is doing. Again that is pure speculation on my part. I don't know.

Mr. BRAY. Also a purely speculative matter, I have been thinking about the letters that McCord sent to the CIA unsigned. He apparently had a deep love of the CIA. Whatever other mistakes he made, he had a very deep loyalty to CIA.

Mr. SECURITY OFFICER No. 1. That would be my impression.

Mr. BRAY. Then he and Pennington were close. There is no question about that. He might have taken that method to get information he thought the CIA should have, but he is under a cloud, perhaps embarrassed. It would be natural since he couldn't continue to send letters, anonymous letters to the CIA, he could use that source. That sounds to me like the more logical explanation. I have not seen Pennington and don't know McCord but that would be logical. It is common that you send information as a prosecuting attorney. People bring information to me, for example, and I want to be sure who it was who sent the information. That seems to fit in.

Mr. NEDZI. You raise an interesting point.

Mr. SECURITY OFFICER No. 1. Your speculation is perhaps more to the point than mine. I really don't know.

Mr. NEDZI. Was Mr. McCord aware of Mr. Pennington's affiliation with the Agency?

Mr. SECURITY OFFICER No. 1. I have no idea. Nobody has ever told me.

Mr. NEDZI. You mentioned the letters. If he did, one would assume he would have used Pennington as a conduit for expressing his concern about people trying to hurt the Agency rather than the letters. Is there anything in the files regarding that kind of information?

Mr. SECURITY OFFICER No. 1. No, sir, not that I have seen. I would speculate that when he got in touch with Mr. McCord—I think, as a matter of fact, one of the letters was addressed to McCord's son's home. I don't recall that specifically but I think one was.

Mr. NEDZI. Addressed to Gaynor's son.

Mr. SECURITY OFFICER No. 1. Gaynor's son, excuse me. I would speculate that what he felt he needed at that time was a direct link, something that would get quickly to the Agency because of the tenor of the letters. That is speculation. As I recall he was concerned about pressure being brought and attempts to involve the Agency.

Mr. NEDZI. Couldn't they have gotten that through Pennington?

Mr. SECURITY OFFICER No. 1. Maybe. I don't know.

Mr. NEDZI. Pennington knew how to get in touch with the Agency if he had something hot, didn't he?

Mr. SECURITY OFFICER No. 1. I don't know. I guess he did. Again this is speculation. I don't mean not to answer your question. The whole case officer situation, the whole contact between McCord and Pennington, and Pennington and Vasaly, that is something I should not even comment on. I don't know.

Mr. NEDZI. I think you are giving a good answer, Mr. Security Officer No. 1. The point is that you do know something about it. We are trying to elicit from you some theories. Obviously it is extremely confusing to everybody.

Mr. SECURITY OFFICER No. 1. I will be as helpful as I can but I don't know that my theories would bear any more weight than anybody else's. I think Mr. Vasaly would be the man who would know those particulars, at least more recently than anyone else. Mr. Sayle was on the security research staff and knew McCord and might know more about the relationship there and how long Pennington had worked and whether he knew McCord then, and those kinds of things.

Mr. NEDZI. Questions?

[No response.]

Mr. COLBY. Could I presume on you to commend the witness from my point of view? I think he performed very well.

Mr. NEDZI. In behalf of the subcommittee we want to thank you very much, too, for your candor. It is refreshing. Unfortunately the testimony is also distressing.

Mr. SECURITY OFFICER No. 1. I know that. I am distressed.

I told Mr. Security Officer No. 2 yesterday, looking at it now it is almost enough to make a grown man cry. I darn near did.

I am sorry it happened.

Mr. NEDZI. We appreciate it very much.

If there is no strong objection the committee will recess for 10 minutes. We have another reporter who will relieve this one.

[Recess.]

Mr. NEDZI [presiding]. The committee will be in order. Security Officer No. 2 was sworn as a witness by the chairman of the committee.

Will you state your full name for the record.

TESTIMONY OF SECURITY OFFICER NO. 2

Mr. SECURITY OFFICER No. 2. Security Officer No. 2.

Mr. NEDZI. Mr. Security Officer No. 2, as you know, we are looking into the Pennington matter. We would like to solicit from you any information that you have relating to it. If you would just describe for us when you first became familiar with the matter, and proceed from there.

Mr. SECURITY OFFICER No. 2. Yes, sir.

My assignment within the Central Intelligence Agency is that of a security officer.

On October 29, 1973, I was reassigned from my previous duties to assist Mr. Security Officer No. 1. Mr. Security Officer No. 1 had been acting in a capacity of a staff assistant to Mr. Steven Kuhn. Mr. Kuhn, as I am sure the subcommittee already knows, is the focal point senior officer within the office of security, responsible to the director of security for all inquiries and matters related to Watergate.

Mr. Security Officer No. 1's responsibility was to assist Mr. Kuhn in preparation of reports and maintenance of file.

So my duties then were to assist in this effort. It was at that point I assumed Mr. Security Officer No. 1 would be moving on to additional duties. So I came up and was briefed in on the procedures, I was shown the files. Then Mr. Security Officer No. 1 went off for a 2-week business trip in connection with new duties he was assuming.

The first time I saw the Watergate files, or in fact, had any exposure to any memorandums relating to Mr. Pennington was during the week of October 29, 1973.

When I read the material it was quite obvious to me it was certainly of controversial nature, but my recollection of the material, and, of course, having seen it since that date, was that there were three memorandums in that file relating to conversations that Mr. Security Officer No. 1 had had with Mr. Sayle, who was then assigned to a section of the Office of Security known as the Security Research Staff.

Mr. NEDZI. Do you ever talk to Mr. Sayle about this?

Mr. SECURITY OFFICER No. 2. No. As I recall those memorandums indicated those conversations took place in the summer of 1972.

Mr. NEDZI. Your knowledge of the Pennington matter is strictly on the basis of the memorandums in the file?

Mr. SECURITY OFFICER No. 2. That is correct, until our recent interviews that we conducted this week, sir.

Mr. NEDZI. Will you go on?

Mr. SECURITY OFFICER No. 2. Yes, sir.

The material in the file indicated there was information Mr. Security Officer No. 1 recorded from his conversation with Mr. Sayle to the effect that Mr. Sayle has heard from Mr. Paul Gaynor, Chief of the Security Research Staff, that a very sensitive source of the Central Intelligence Agency, an individual identified as Lee Pennington, had or was alleged to have entered the home, or possibly office space of Mr. James W. McCord, Jr., apparently with the intention of finding any documentary evidence which would link Mr. McCord with the Central Intelligence Agency.

There was a record of an incident, apparently because of its nature, certainly stuck in my mind, right off the bat, because it related to the effect that there had been a fire purposely set in the fireplace of the McCord home and through oversight the flue had not been opened and the smoke generated from this fire necessitated repainting of the living room. So there was a second time somebody had to go back and repaint the living room.

There were no other memorandums in the file to the effect that this had been followed up on or any further effort was being undertaken either by Mr. Kuhn or anyone in our office of Security.

Mr. NEDZI. Where did you hear the flue was not opened?

Mr. SECURITY OFFICER No. 2. That was indicated, I believe, in one of the memorandums, sir.

If I recall correctly, when I read the material—Mr. Security Officer No. 1 showing it to me. And we have discussed it since that time—Mr. Security Officer No. 1 may have provided this information to me in the course of verbal briefings on his understanding of the incident since that time. So at this point my firsthand recollection is that it appears in one of the memorandums.

Certainly it came in discussion from Mr. Security Officer No. 1, not from Mr. Sayle, at least at that point.

Mr. NEDZI. All right. Now, you had your memory refreshed on the subject just recently, I take it.

Mr. SECURITY OFFICER No. 2. Yes, sir.

Mr. NEDZI. With whom did you speak in this regard?

Mr. SECURITY OFFICER No. 2. On last Wednesday, I believe, the date was the 20th, had occasion to call Mr. Sayle to Mr. Kuhn's office, and Mr. Kuhn, Mr. Security Officer No. 1 and I interviewed Mr. Sayle and asked him to relate to us his understanding of Mr. Pennington's activities, particularly relative to this issue. Then Mr. Sayle at that point repeated this incident concerning the fireplace and the flue, and so on; you are quite correct when you say my memory has been refreshed on it. That is why I am a bit hazy at the moment when that particular incident was made clear to me.

Mr. NEDZI. When you made this discovery on the 29th of October, viewed the file, did you talk with anybody about this subject?

Mr. SECURITY OFFICER No. 2. No, other than my discussion with Mr. Security Officer No. 1.

There is a statement in one of the memorandums, it is my memory it is the memorandum of August 25, 1972, that Mr. Security Officer No. 1 states Mr. Sayle's remark that this information was passed by Mr. Gaynor, Chief of the Security Research Staff, directly to Mr. Howard Osborn, Director of Security. I had seen no information in that file or received information verbally from Mr. Security Officer No. 1 or anyone else to lead me to believe, or to counter any fact I understood or impression I had, that officials in the Office of Security to me were conversant with the matter.

Mr. NEDZI. Were you given any orders with respect to this file at that time?

Mr. SECURITY OFFICER No. 2. No, not at that time.

Mr. NEDZI. When were you first given any orders with respect to the file, and what were they?

Mr. SECURITY OFFICER No. 2. I was, say—I was concerned. I felt some level of concern about this matter, because of having read it. But my impression from reading the material in October was that this was in the hands of senior officials.

The first time this status changed was, to my recollection, during the week of the 21st of January.

Mr. NEDZI. You recall that?

Mr. SECURITY OFFICER No. 2. I recall this rather specifically because of the nature of the incident and the way it struck me.

It was our habit because of the press of business to stay after work because the phone traffic would slow up a bit and we could get more work done, particularly catch up on some of our clerical duties, because we had no secretarial assistance at that time, and Mr. Security Officer No. 1 and I had total custodial responsibility for the files, including doing the files, and that is mostly the time we did it. It must have been some time after 5:30 when Mr. Security Officer No. 1 came to the small office I had in which the safe is located that has the bulk of the files, the cabinet.

Mr. Security Officer No. 1 sat down and said, "Steve just told me to pull the Pennington material out of the file and maintain it separately."

I recall specifically that almost immediately I said to him, "Security Officer No. 1, what did you say to Steve?" And Security Officer No. 1 said to me, "I told Steve, 'Well, we will see about that,'" and walked out of the office, and he came straight to my office.

Mr. Chairman, I can tell you categorically Mr. Security Officer No. 1 and I immediately came to the decision that no such action was going to be taken on our part. There was never any question in our mind, or any doubt.

Mr. NEDZI. Is there any question as to the date?

Mr. SECURITY OFFICER No. 2. It can be reconstructed. I will tell you if I may, how I can verify the date. Mr. Security Officer No. 1 and I had no question as to whether or not we would comply with the order—we would not.

The problem in our minds was how to resolve the matter in as positive a manner as possible. When I say that, I recall specifically after we had decided what we were going to do we parted, just outside the building, and we were talking about it and decided between us we were going to stand together on it. If it came down to it we would resign on the issue, if we were still instructed to do this regardless, we would refuse, and resign.

Our decision was this: Since this instruction was such a radical departure from anything we had been told in connection with this material, up until that time Mr. Security Officer No. 1, when I was first briefed on the files, and first thing he did was show me the Mansfield instruction and made clear to me nothing was to be destroyed and everything was to be maintained in a very careful order and accurate manner, and all manner of business conducted in connection with this file up until that moment had been exactly in that respect.

This was such a radical departure, frankly we did not know to interpret it—we were not sure what might happen.

We decided we were not able to interpret the significance of this instruction, but we did feel were these materials extracted from the files and we were to lose custodial responsibility for them we would no longer be in a position to receive them. Therefore, Mr. Security Officer No. 1 and I decided that we would early the next morning—it was already quite late, both of us felt the need to get home—we would come in early, Xerox two sets of everything in the file relating to Mr. Pennington, and hold those separately in our own custody.

We did that. We were in about 2 hours before the normal hour of opening of business.

We Xeroxed everything under the tab heading in two sets. We each sealed them in separate envelopes, and before we did that we each wrote our own initials on the front page and dated it and, therefore we can extract that date from that initialing. I initialed Mr. Security Officer No. 1's copy and he initialed mine. I wrote on the face of my envelope "To be opened only by Security Officer No. 2 or the DCI or the IG."—IG being the Inspector General.

Mr. SLATINSHEK. For the record, will you identify the Steve who gave you the order and said to pull this file?

Mr. SECURITY OFFICER No. 2. Yes. The order was not given by Mr. Steven Kuhn to me directly. My understanding was Mr. Security Officer No. 1 had received this instruction from Mr. Kuhn, and Mr. Security Officer No. 1 then related that order to me.

Mr. SLATINSHEK. For the record, and for members present, what is Mr. Kuhn's position in relation to Mr. Osborn?

Mr. SECURITY OFFICER No. 2. Mr. Osborn is the directorate of the office of security, dealing with personnel security and investigations. Mr. Kuhn is the chief of operations of that directorate, subordinate to a deputy director, Mr. Stanley Ense.

Mr. NEDZI. Mr. Chairman.

Mr. HÉBERT. You said, now, that you did not learn directly from Mr. Kuhn?

Mr. SECURITY OFFICER No. 2. No, sir, not at this time.

Mr. HÉBERT. How did you learn it was Mr. Kuhn who said to pull the file?

Mr. SECURITY OFFICER No. 2. I was told by Mr. Security Officer No. 1 that he had just been instructed by Mr. Kuhn that this was to be done. The following morning I had a firsthand discussion with Mr. Kuhn on the incident, so I certainly know he was aware of the instruction.

Mr. HÉBERT. Let's play it back.

Mr. Security Officer No. 1 told you he had just been instructed?

Mr. SECURITY OFFICER No. 2. That is correct.

Mr. HÉBERT. So you assumed there, from the minutes, that he had just been instructed to tell you to pull the file?

Mr. SECURITY OFFICER No. 2. Yes.

Mr. HÉBERT. What did you do then?

Mr. SECURITY OFFICER No. 2. Mr. Security Officer No. 1 and I had a discussion of the matter at that point, and both decided immediately we would not comply with that instruction.

Mr. HÉBERT. Who suggested you would not comply with it? You or Mr. Security Officer No. 1?

Mr. SECURITY OFFICER No. 2. I would have to say, sir, that it was a joint almost instantaneous reaction.

If I may make this seemingly self-serving comment: Mr. Security Officer No. 1 and I had not known each other to any extent before I began working with him in October. But we found our relationship to be immediately a very warm and friendly one, and we found our sensitivities were so much the same that our reactions to things would almost be spontaneously exactly the same thing.

I think if he said, "I don't think we can do this" I would have responded "Security Officer No. 1, you are exactly right." It was that type of thing—no debate.

Mr. HÉBERT. The next morning you went to Mr. Kuhn?

Mr. SECURITY OFFICER No. 2. First, after Xeroxing this material we filed that material in other files in the office. We reinserted the material into the file folder so it would not appear that they were going to remove, or comply. We wanted it clear we were not, by taking the entire file folder with the material in place to Mr. Kuhn's office.

Mr. HÉBERT. In other words, there were three copies, the original and two copies, one with Mr. Security Officer No. 1, one with you?

Mr. SECURITY OFFICER No. 1. Yes.

Mr. HÉBERT. Then you alone, or with Mr. Security Officer No. 1, went to Mr. Kuhn's office?

Mr. SECURITY OFFICER No. 2. Mr. Security Officer No. 1 and I together.

Mr. HÉBERT. What did you tell him?

Mr. SECURITY OFFICER No. 2. We arrived in Mr. Kuhn's office as he was just arriving for work. As he was opening his safe we told him what we thought this particular action was. We told him we felt the action of removing any material from these files would be absolutely inappropriate and we felt it was not in the best interests of the Agency.

Mr. Kuhn, as I recall, did not challenge in any direct manner our statements. He was obviously thinking about them, and he was obviously—I had the impression—was concerned about them. He did not come back with any question of insubordination or anything of the sort. He listened to the comments I and Mr. Security Officer No. 1 made about our conviction that this was inappropriate.

He then got up from his desk and walked over to the entrance to Mr. Ense's office, his superior. Mr. Ense had not been involved in these matters. The chain of command dealing with Watergate was usually directly from Mr. Harold Osborn, the director of security, directly to Mr. Kuhn.

I believe the statement Mr. Kuhn made to Mr. Ense, who had just arrived, was something to the effect of: "Stan, we may have a problem with the Watergate file." Since he had just stepped inside Mr. Ense's office, Mr. Security Officer No. 1 and I seized that opportunity to invite ourselves into Mr. Ense's office so we would have someone else who was neutral to this question to hear the discussion.

We then briefed Mr. Ense that we had received this discussion from Mr. Kuhn. Mr. Kuhn did not raise issue with that statement.

Mr. Ense asked what this material was. Mr. Security Officer No. 1 then opened the file folder, took the material out—since the file folder was quite thick, it was easier to have it out—

Mr. HÉBERT. That was the original?

Mr. SECURITY OFFICER No. 2. The original set.

He handed the copies to Mr. Ense, who read the material, and said to us, "This is the first time I have seen this."

Mr. Security Officer No. 1 then, I recall, specifically made the statement he felt if this material was potentially embarrassing to the Agency, he felt it far more important that this information be volunteered than to have it discovered at some later date.

I then added the comment that up until this moment we were in a position to testify under oath before anybody that this information and these files had been kept in an accurate and responsible manner, that no material had been removed, nothing had been altered, every request for information that had been—that we had handled, had been done in an accurate manner. This was the first instance that we had received an instruction.

However, up to that moment we had not yet technically removed any material from the file. I felt it absolutely imperative that we still be in a position at some later date to testify that we had not removed

the material. And that was my position. And Mr. Security Officer No. 1 agreed. He said that was also his position.

Mr. HÉBERT. Mr. Ense, you are speaking of?

Mr. SECURITY OFFICER No. 2. No, Mr. Security Officer No. 1 said that he was in agreement with me. Mr. Security Officer No. 1 then made the statement parenthetically, as I recall, made the comment to Mr. Ense that he did not drive across the Potomac on the way to work, and he did not think the CIA needed a Pat Gray.

What Mr. Security Officer No. 1 was obviously referring to, the reference to the Potomac, I interpreted as going back to the testimony of Mr. John Dean, that he was asked to "deep six" material going across the Potomac.

Mr. Ense immediately responded as we had finished our briefing, that he agreed wholeheartedly, he could not support the removing or alteration of any material from the file, whatsoever.

Mr. HÉBERT. Did Mr. Kuhn ever tell you who told him to have those files removed?

Mr. SECURITY OFFICER No. 2. No, he never told me directly.

Mr. HÉBERT. Well, indirectly.

Mr. SECURITY OFFICER No. 2. My understanding from Mr. Security Officer No. 1, and again I believe this a question of impression, was that the instruction was being relayed from Mr. Howard Osborn. My understanding is that Mr.—Mr. Security Officer No. 1 told me—when I asked him for further details and how this had come up, we had testified, from Senator Baker earlier about the week prior, I believe, another series of questions. Among the questions asked was the status of the Office of Security, Watergate file.

The decision was made apparently, it is my understanding, at the Legislative Counsel's office perhaps in response to this inquiry, that it was appropriate perhaps for the Inspector General to review our files, and then be in a position to certify to Senator Baker that there was nothing in these files that he had not already seen, therefore we remove the logistical problem of moving all this material down to Senator Baker's custody, which would then emasculate us from answering inquiries from any other body.

Mr. HÉBERT. At what time did you inform, or have you informed, anybody that two xeroxed copies existed of this material?

Mr. SECURITY OFFICER No. 2. I have never informed any official in the Office of Security. The first official of the Central Intelligence Agency to know this was Mr. John Richards, of the Office of the Inspector General, whom I called Sunday morning—yesterday.

Mr. HÉBERT. And told him there were two such copies—yesterday morning?

Mr. SECURITY OFFICER No. 2. Yes, sir. That is correct, sir.

Mr. NEDZI. At the time of your discussions in Mr. Ense's office, the entire incident between Mr. Kuhn and Mr. Security Officer No. 1 was discussed, was it not?

Mr. SECURITY OFFICER No. 2. That is correct, sir.

Mr. NEDZI. Mr. Security Officer No. 1 reported in your presence and in Mr. Kuhn's presence, to Mr. Ense, that Mr. Kuhn had asked that this file be set aside?

Mr. SECURITY OFFICER No. 2. That is correct, sir.

Mr. NEDZI. Mr. Kuhn concurred in the account rendered by Mr. Security Officer No. 1.

Mr. SECURITY OFFICER No. 2. I would say that he did not dispute it at that time.

Mr. NEDZI. Did he say anything to Mr. Ense with respect to this?

Mr. SECURITY OFFICER No. 2. No, sir. He did not. Nothing that I can recall. Because I would have to say my recollection of Mr. Kuhn's comments at the time, that he did not dispute any statement made. I cannot recall any particular statement he did make, though, because—I would have to say my own emotional involvement at that moment was such that I was rather concentrating on that. I was rather disturbed, frankly, and I would have to say that my recollection of what else Mr. Kuhn may have said would be hampered.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. You mentioned something about two xeroxed copies. What does that refer to? I was out of the room, I think.

Mr. SECURITY OFFICER No. 2. Mr. Security Officer No. 1 had indicated to me he had received instructions from his superior and my superior, Mr. Kuhn, to remove material from the Watergate files and maintain it separately, dealing with Mr. Pennington.

Mr. Security Officer No. 1 and I disagreed with that suggestion, and we were not going to be party to it. And in order to protect the record we determined that on our own we would make xeroxed copies and put them in a separate file in a separate safe so we could obtain them at a later date, if necessary.

Mr. BRAY. Where are the originals from which those Xeroxed copies were made?

Mr. SECURITY OFFICER No. 2. As I recall the incident, the discussion in Mr. Ense's office, Mr. Kuhn picked up the file folder with the copies of the material, loose, as they had come off Mr. Ense's desk after Mr. Ense read them, laid them in, and closed it. Mr. Ense suggested—I said, I feel we have to give the Inspector General's Office access to these files and it is important that the files be intact and the Pennington material be in the files.

Mr. BRAY. So the original did remain there?

Mr. SECURITY OFFICER No. 2. Yes, sir.

Mr. BRAY. Besides the originals you have Xeroxes of it?

Mr. SECURITY OFFICER No. 2. Yes, sir.

Mr. BRAY. How many sets?

Mr. SECURITY OFFICER No. 2. Two sets, sir. Both are now in the hands of the Inspector General.

Mr. BRAY. How many pieces were there?

Mr. SECURITY OFFICER No. 2. I would say approximately 10 memoranda.

Mr. BRAY. On what day was the suggestion made that they be removed?

Mr. SECURITY OFFICER No. 2. I cannot recall the exact date, sir. I would say from the best of my recollection it was the 21st of January.

Mr. BRAY. This January?

Mr. SECURITY OFFICER No. 2. Yes, sir.

Mr. BRAY. Last January?

Mr. SECURITY OFFICER No. 2. 1974.

The dates of the morning of the conference in Mr. Ense's office, it will be indicated on the front copies of these Xeroxes which are in the hands of the Inspector General, because Mr. Security Officer No. 1 and I dated those Xeroxed copies and initialed them so that would fix the date.

Mr. NEDZI. Will you tell us the next significant incident in this matter?

Mr. SECURITY OFFICER No. 2. Yes, sir.

We were then of the opinion—impression, that Mr. John Richards of the Inspector General's Office would be coming up within 24 hours to review the files. It was our understanding then we would of course see this material in the course of this review.

Mr. NEDZI. Why were you under that impression?

Mr. SECURITY OFFICER No. 2. If he were going to review all that material—

Mr. NEDZI. No. Under the impression he was going to be there within 24 hours.

Mr. SECURITY OFFICER No. 2. I was told that in Mr. Ense's office. What apparently precipitated the discussion to remove the material was that Mr. Richards' appearance was expected, apparently imminently.

Then the suggestion was—I am interpreting at this point—we were going to have to remove the material from the file before he gets here.

Mr. NEDZI. Mr. Ense said "He is going to be coming the next day"?

Mr. SECURITY OFFICER No. 2. "He is coming the next day, and the files are to be complete."

He did begin the review; the nature of the activity related to all questions on Watergate was that he would start going through the review, be called away, and come back.

By, let me see, I would say by the middle of February he had been—we had been dealing with him on other matters, particularly in connection with the tape investigation. Mr. Security Officer No. 1 and I had conducted several of the interviews of some of the clerical personnel who were understood to have done some transcribing. So we had dealt with Mr. Richards on an almost daily basis. He would say to us, "Guys, when I get a few minutes I have to get back to the files," and we would say, "Come on, you have got a few more to get through."

He would say, "OK, I will be up there tomorrow." And the next day would come and he wouldn't make it.

Prior to the week of February 18, the Agency was in preparation of a final draft of a memo, which it is my impression this committee received, with regard to the tape incident.

We received late in the week, prior to the 19th of February, a draft copy of this total memorandum, for our review. It was addressed to Mr. Kuhn, but we were working quite closely on this particular item, so it was shown to Mr. Security Officer No. 1 and myself.

We read the first page of the memorandum, and the first page of the memorandum dealing specifically with the particular incident was a rather broad statement to the effect that the Agency had undertaken a thorough review and that all relevant material to the Watergate incident had been forwarded to appropriate committees and authorities.

On reading that, Mr. Security Officer No. 1 and I did not feel very comfortable with it, because we realized the review of our files had not been completed.

We also realized that the review that was then beginning on our part, of some of the holdings in the Inspector General's Office had not been completed. We were not sure. There were so many separate investigations within the Agency, we were not sure about the question of cross-fertilization, perhaps somebody had something someone else was not aware of.

On the afternoon of the 19th of February, Mr. Security Officer No. 1 and I were out of the building to conduct an interview of a recently retired employee relative to matters connected with other aspects of the Watergate question. Mr. Security Officer No. 1 and I were riding back in his car and the question came up of the memorandum of the legislative counsel, Mr. Miller.

We both expressed our concern about the broad statement with the feeling that a statement was being made on behalf of the Director, which was in all probability not entirely accurate. We felt very concerned about it.

We were also likewise very concerned and disappointed that Mr. Richards had not yet completed his review. We decided at that point, in the car, and I remember it clearly—again I would say this is another instance of the judgment not originating necessarily with one or either of us, but again rather as to between the two of us, that it was time this matter dealing with Pennington, which had been sensitized to by the January incident, has to be surfaced, we could not wait around any longer for it to be found, it had to be surfaced and we were going to do it.

We got back to the office, Mr. Security Officer No. 1 and I, and he called Mr. Miller of the sense, or intended sense of his memorandum, was this memorandum intended to be specific only to questions related to the tape incident, or was it to be broad, dealing with the entire Watergate.

I was sitting in the office when he made the call, and Mr. Security Officer No. 1 told me of the other side of the conversation—I would certainly hear his—that Mr. Miller said, "No," it was the Director's intention that this be a broad statement.

Mr. Security Officer No. 1 told Mr. Miller that he felt that this might not be appropriate insofar as we were unaware of the complete holdings in the Inspector General's Office, and we were certainly aware the Inspector General had not completed review of our files and, we thought he thought so too. We hoped therefore to alert Mr. Miller, perhaps try to get him to slow up on this, so we could again try to get this surfaced within our channels. We had agreed we would take our Xerox copies directly to Mr. Miller if we were unsuccessful in getting it surfaced in our channel.

We were going to try first to get it surfaced inhouse.

Mr. Kuhn was out ill that day. The next morning he came in. On the morning of the 20th I came in about an hour before the normal opening of business and went straight to Mr. Kuhn's office. Mr. Security Officer No. 1 was already in Mr. Kuhn's office discussing the results of our interview the previous afternoon, and bringing Mr. Kuhn up to

date, and beginning to indicate to him our concern about the status of the memorandum. I joined the discussion. And both Mr. Security Officer No. 1 and I impressed on Mr. Kuhn that we felt it was inappropriate that this memorandum be permitted to go out when we had reason to believe at this point that the material in our files relating to Mr. Pennington might not have been seen by more senior authority.

Mr. Kuhn did not dispute this. I remember his asking, "Well, are we sure it did not go out?"

I said, "No, we are not, but on the other hand we are not sure it did, and that is the significant thing at this point."

So Mr. Kuhn said, "Well, I agree, there may be a problem here. I better go brief Mr. Osborn."

At that point Mr. Kuhn went to Mr. Osborn's office, came back within 5 minutes and said to us, "Ossi," meaning Mr. Osborn—"wants us to check this thing out. Let's get Ed Sayle up here and see what he knows."

At that point Mr. Sayle was called for. Mr. Sayle entered Mr. Kuhn's office and we then began the debriefing of Mr. Sayle.

Mr. Sayle reiterated his initial impressions which had been reflected in Mr. Security Officer No. 1's memo.

After hearing that, Mr. Kuhn called Mr. John Richards of the Inspector General's Office and asked that he join us. Mr. John Richards accompanied by Mr. Scott Breckenridge, of the Inspector General's Office, joined us in Mr. Kuhn's office.

Mr. Kuhn asked that Mr. Sayle repeat the information that he had just given us. He did.

Mr. Kuhn then asked Mr. Richards "John, have you ever heard about this before?" And Mr. Richards said, "No, Steve, it is the first I ever heard of it."

Mr. Chairman, that was the first time I could say, as a matter of fact, that I could state that senior officials in the Agency were not aware of the incident.

The rest of the sequence of events was that decision was made to consult immediately with the Office of General Counsel to make some effort to determine the extent of the further knowledge of this incident. Pursuant to that, that afternoon we called other individuals, including Mr. Vasaly, who was—whom Mr. Sayle told us was the last individual to have contact with Mr. Pennington, and we debriefed him.

When Mr. Vasaly joined us in the afternoon he was asked to, and brought with him Mr. Pennington's Office of Security file. That was the first time, on the afternoon of February 20, 1974, that he had ever seen Mr. Pennington's file. And I have the impression, the reactions and statements made by both Mr. Security Officer No. 1 and Mr. Kuhn, that they had not previously been exposed to it either.

Mr. NEDZI. Do you know anything about the kind of work Mr. Pennington was doing?

Mr. SECURITY OFFICER No. 2. No, sir. The only information I got in regard to Mr. Pennington's activity was, the first impression was contained in Mr. Security Officer No. 1's recollection in his August 1972 memorandum that stated that: No. 1, Mr. Pennington had been previously with the Federal Bureau of Investigation. There were some dis-

cussions that Mr. Security Officer No. 1 recalled, he briefed me from discussions he had with Mr. Sayle, to the effect that it was believed Mr. Pennington had prior to the death of the late Associate Director of the FBI, J. Edgar Hoover, had done Mr. Hoover's tax returns. A sensitive issue, the full significance of which I frankly did not understand.

The next information I got was on the afternoon of February 20, or the morning of February 20, as we were debriefing Mr. Sayle and Mr. Sayle was explaining to us that his understanding of Mr. Pennington was a \$250-a-month-fee-basis confidential informant of the Office of Security.

Mr. NEDZI. You don't know what Pennington was reporting on?

Mr. SECURITY OFFICER No. 2. Not with any precision, sir. No. Because most of my concern was, frankly, the alleged incident relative to Mr. McCord. Any question I had was continually directed back to Mr. Sayle, relative to that.

Mr. NEDZI. Did you ever talk to Mr. Osborn about this?

Mr. SECURITY OFFICER No. 2. No, sir. Not until—the only occasion I had to talk with Mr. Osborn was on the afternoon of the 21st of February; at 1:15 a meeting was convened in the Office of the General Counsel, Mr. Warner. The matter was discussed and it was determined in a briefing that Mr. Colby be prepared rather than those of us who had some knowledge of this going in and doing it verbally, it was felt a briefing paper was more in order.

Mr. Kuhn was in this meeting, and Mr. Security Officer No. 1 and myself, representing the Office of Security. We were instructed by the group to begin to prepare that paper. We went downstairs, attempted to see Mr. Osborn, Mr. Osborn did not attend that meeting, because he had other appointments and was away from his office. We asked for an appointment to see Mr. Osborn as soon as possible. We began preparing the memorandum, which is the memorandum that I believe has been provided to this subcommittee—draft version.

Mr. Osborn was free and Mr. Security Officer No. 1 and I went to see him.

Mr. NEDZI. Whose idea was it to prepare the memorandum?

Mr. SECURITY OFFICER No. 2. The Office of General Counsel.

We briefed Mr. Osborn on the meeting and our instructions to prepare the briefing paper. He felt this was a good idea and he said to us, "While you are at this, when you bring me the briefing paper for my signature, will you please also bring me a copy of my affidavit, bring me copies of the transcript of testimony before any of the congressional committees that may relate to this so I can review it, and anything you can find that involves any comments I may have made on this subject?" Then we left his office.

Mr. NEDZI. Mr. Chairman, do you have any questions?

Mr. HÉBERT. No.

Mr. NEDZI. Mr. Bray?

Mr. BRAY. No questions.

Mr. SLATINSHEK. I have one question.

You have indicated to the committee that the Pennington file has bothered you in that the information concerning it had obviously, or apparently, not gone to executives in the higher echelons of the

Agency. Is there any other information to your knowledge, in the files, now that you have had an opportunity to reflect on it that had not similarly been sent forward to the Director?

Mr. SECURITY OFFICER No. 2. First, if I may, Mr. Slatinshek, I want to say my impression, or any strong conviction that I had, that it had not gone forward I would say did not materialize with concreteness until the incident of January when we were asked to remove the material. That was a red flag to my eyes that there was something about that material, obviously if I could not see it the other people had not seen it either.

I took until that point, as to the statement in the memoranda, the Director of the Office of Security had been briefed.

Now, to answer your question, I can state to the best of my knowledge any material I had been exposed to, this would be the only item that I had the impression that material in any way Watergate-related had not gone on to senior officials.

Mr. SLATINSHEK. When you discussed this matter in the Office of General Counsel, of CIA, had you at that time mentioned the fact that you had been ordered to remove this file?

Mr. SECURITY OFFICER No. 2. No, sir, we had not. I think even to this day, neither Mr. Security Officer No. 1 nor I know fully how to interpret that. Insofar as I have said earlier, it was such a radical departure in every other respect in my dealings with Mr. Kuhn, for example if we would be asked to prepare a response either for Senator Baker's purposes or anyone else's, we would be given the question, we would have full access to the files, we would probe the material from these files, extracting the material in an honest and accurate way, reflecting that in our memorandum, then providing it to Mr. Kuhn. Mr. Kuhn would many times ask us, "Now, look, guys, are you sure, is that accurate? Is that straight?"

We would say "Yes, Steve, that is it. That is the way it is."

He would say "Well, fine. OK."

Then it would go off.

So you see our dealings on this were such that this was so radical that, I say again, I don't today know how to interpret it. Whether it was a momentary lapse of judgment or what it was, I don't know. So for that reason we were very frankly reticent to bring up the matter. Because we did feel it would reflect adversely on Mr. Kuhn, and since we did not note full interpretation, or significance of it, we were reticent to do so.

Mr. HÉBERT. What in these documents connected the CIA with Watergate?

Mr. SECURITY OFFICER No. 2. We have no idea, sir.

Mr. HÉBERT. You read them?

Mr. SECURITY OFFICER No. 2. No, sir. The document states, sir—there is an allegation that a Mr. Lee Pennington entered Mr. McCord's home and destroyed some ill-defined and undefined, unspecified materials, allegedly with a purpose to destroy any connection within the Agency. Since we have no information as to the fact whether this happened or not, or I certainly have had no contact with Mr. Pennington nor with anyone who has seen Mr. Pennington directly on this issue, I have no idea, sir.

Mr. HÉBERT. When I heard the opening statement earlier this morning, Mr. Osborn's statement is the connection between McCord and CIA. Everybody admits McCord did once work for the CIA.

Mr. SECURITY OFFICER No. 2. Yes.

Mr. HÉBERT. What has that to do with Watergate, I don't know.

Mr. SECURITY OFFICER No. 2. I have the file cabinet they have been working with on the Watergate matters. I have Mr. McCord's complete file there. We have to refer to it from time to time to answer inquiries.

Mr. HÉBERT. You said that this is the first time for anything related to Watergate. How is it related to Watergate?

Mr. SECURITY OFFICER No. 2. There is allegation that someone after the Watergate entered Mr. McCord's home to carry out this act has overtones, you see.

Mr. HÉBERT. Assumed overtones?

Mr. SECURITY OFFICER No. 2. Yes, sir. This is also, sir, is why, frankly, I did not move off with dispatch when I first read the material: 1. Because I assumed the Director of Security was aware of it, and secondly, this is so vague and obviously hearsay type of information.

Mr. HÉBERT. It is very vague to me.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. I have to agree Mr. Hébert is certainly right. There is an enormous number of circumstances, you know, here. But at this time, as a lawyer, I would say that is all there is; circumstances, that could mean a whole lot, and it could mean nothing at all. It could mean personal things, that naturally he might be offended, that came up. It might be or not be connected in any way with the CIA—either way.

One thing I rather worry about is that this information—of course, you did your duty and got it to the other committee, but a lot of other things have been brought up there that in the end had practically no connection.

I think the quicker we can get down to getting something from Pennington and get at some of the things that are very difficult to understand. The very fact so many papers were burned and that they had to repaint, that sounds pretty far-fetched. After all, he was away from the CIA at this time. I can see how for his defense, it might be wanted. But it is still not clear to me that the CIA is involved.

Mr. NEDZI. Mr. Bray, you don't think we have any evidence that the CIA is really involved at this time.

The problem, of course, is, if an individual within the CIA gets an order from his superior to conceal information that is something that I am sure the Director and this committee is very concerned with.

Mr. BRAY. I am not questioning that. But I would like to soon find out what Pennington has to say.

Mr. NEDZI. We have him on our list of prospective witnesses.

Mr. HÉBERT. Can you get him today? Can you get him?

Mr. NEDZI. We don't know.

Mr. HÉBERT. The thing that concerns me about this is the way the CIA's nose has been rubbed in the dirt on the whole thing. It will be

looked at soon enough within the Watergate subcommittee. They will say the Watergate papers and the CIA were in there. They aren't, at all, but that is the way it will come out when it is said.

Mr. BRAY. Perhaps I should not make any guesses at this time. I do not claim to be an expert witness. But I have seen some terrific circumstances in a case and in the end there was no—

Mr. NEDZI. We have a further problem, Mr. Bray, of trying to bring conflicting testimony together. Because we have had testimony here today that borders on perjury, if it is not in fact, perjury.

Mr. Hogan.

Mr. HOGAN. Thank you, Mr. Chairman.

Just a short question, Mr. Security Officer No. 2.

You have testified that when you first saw this file it either bothered you or it was controversial, you felt.

Why did you think it was controversial?

Mr. SECURITY OFFICER No. 2. One aspect of the file that bothered me was that there was caution that this had taken place, but I was not aware of any other material I had read relative to any activity by any investigative body which had touched on this matter. And it concerned me that even if this were a totally unfounded allegation, I thought it deserved following up and be put to bed if it was not so.

I was not aware either the Federal Bureau of Investigation or anyone has been active in pursuing this area. That is what concerned me.

Mr. HOGAN. Did you make any recommendations to anybody at the time that this be done?

Mr. SECURITY OFFICER No. 2. No. I did not think it appropriate for me to do so. It was my understanding the senior officials of the Agency, whom I had every reason to believe were acting in a totally responsible manner, were conversant with the matter.

Mr. HOGAN. You indicated to Mr. Slatinshek you were concerned with what I believe you called a radical departure in handling of a file, upon orders of Mr. Kuhn, which appeared to require separation.

Mr. SECURITY OFFICER No. 2. Yes, sir.

Mr. HOGAN. Did you feel, apart from the radical departure, did you feel there was something more sinister about this?

Mr. SECURITY OFFICER No. 2. I had no idea how to interpret it. I didn't know what was behind it. My obvious assumption was that this material was going to be pulled out of the file so it would not be seen by the Inspector General.

Mr. HOGAN. Where was it going to go?

Mr. SECURITY OFFICER No. 2. I have no idea. Our instructions, as I understood Mr. Security Officer No. 1 was, "Pull them out of the file, separate them, and—apparently—bring them to Mr. Kuhn the next morning. Their disposition would be only speculation.

I have no idea.

Mr. HOGAN. Mr. Kuhn never suggested anything?

Mr. SECURITY OFFICER No. 2. No, sir.

I would like to say, for the record, that in this discussion there was no suggestion about anything being destroyed or altered. The specific instruction, as I understand it, and I asked Mr. Security Officer No. 1 specifically a couple times, to get it straight, there was no suggestion

of either destruction or alteration. The instruction was specifically to remove and maintain separately.

Mr. HOGAN. You were not told where to maintain separately?

Mr. SECURITY OFFICER No. 2. Not at that point, no.

Mr. HOGAN. Did you and Mr. Security Officer No. 1 discuss that "maintain separately" business?

Mr. SECURITY OFFICER No. 2. We were so busy discussing it that they were not going to do it, period, we were not concerned with whether somebody was going to keep it. We knew they were not going to do it.

Mr. HOGAN. Thank you.

Mr. BRAY. If he wanted those papers could he not personally have gotten them out of those files?

Mr. SECURITY OFFICER No. 1. It would have been difficult in one sense. It is the filing logistics of the situation, the file in which these materials are kept is in a small interviewing room, really room for one desk and a couple file cabinets, off one of the corridors. That is the office I have been occupying, because of the necessity to constantly leave that office and go forward to respond to requests from Mr. Kuhn, or go elsewhere, the office is constantly locked, and I carry the key.

Mr. BRAY. You were the only one who had a key to it?

Mr. SECURITY OFFICER No. 2. Yes, sir, at that time. If Mr. Kuhn wanted to get in there he would have had to go to the security duty officer and be accompanied up there and gotten a pass key, of which some record would have been made, so I hardly think—

Mr. BRAY. What other papers were there in the file besides these, roughly 10?

Mr. SECURITY OFFICER No. 2. Dealing with Mr. Pennington. The other papers in the file dealt with other aspects of individuals who had names that would be mentioned in connection with the Watergate investigation; we would be asked for example, about Mr. McCord. Every response we ever gave to any agency relative to Mr. McCord would be filed under the alphabetical tab "McCord," so we would have a record of everybody that we covered, material, extracts from his security file.

Mr. BRAY. You would take all the papers that might have had connection with Watergate and put them in this cabinet?

Mr. SECURITY OFFICER No. 2. This is the bulk of working materials. There are a series of files. In the beginning, since the agency was apparently not in a position to define what this "Watergate" was about, frankly most of the information was coming from press reports, so activity was initiated to clip the newspapers on the Watergate to try to define, and, frankly, anticipate questions, if an allegation would appear in the newspaper that the Agency was involved in some way we would see that in a morning paper and get our feet going right away on that to try to research it, find if there was anything to it, because most assuredly within due course we would be asked, and we would have already done some research and could respond to it.

So we had a lead file built out of these newspaper clippings—and that is voluminous.

Mr. BRAY. Thank you.

Mr. NEDZI. Mr. Security Officer No. 2, we appreciate your coming down. You are excused, sir.

[Mr. Edward F. Sayle was sworn as a witness by the chairman of the committee.]

Mr. NEDZI. Please be seated, and state your name for the record.

TESTIMONY OF EDWARD F. SAYLE

Mr. SAYLE. Edward F. Sayle.

Mr. NEDZI. You are aware, Mr. Sayle, that the subcommittee is reviewing the so-called Pennington incident?

Mr. SAYLE. Yes, sir.

Mr. NEDZI. Would you give us the benefit of your experience in this regard?

Mr. SAYLE. In narrative form, sir?

Mr. NEDZI. Yes.

Mr. SAYLE. I might say, I have been refreshed on dates only from the standpoint that I have not seen memos of a record, or memoranda, but I was asked about certain things as of last Wednesday but I had completely forgotten the matter. So I have that benefit. But it is not too much.

As it came to my mind sometime, it would have to be approximately a week, probably the week or, second week after Mr. McCord's arrest, General Gaynor became quite disturbed, very upset, in fact, to indicate that he had learned Mr. Pennington had been through Mr. McCord's papers, apparently to determine whether there were any Agency employees linked with McCord's activity.

Mr. NEDZI. Let us back up on the date, now. When did he come to you with this information?

Mr. SAYLE. This would be 1 or 2 weeks after the arrest. I have no dates, no memoranda on this, at all. After the arrest, or after the break-in, yes, because we found out Sunday morning what he had been up to.

It was a week or two after that that Gaynor was quite disturbed to find out this had happened, but—well, he is a Reserve general, sir, and he said he heard that Pennington had gone in to check the papers and at the time I don't remember whether it was the office or the home later, I believe he clarified it in another conversation, and said both places had been entered by someone to look for materials.

Mr. NEDZI. How did the conversation arise?

Mr. SAYLE. You see, sir, our shop had two functions. I worked for General Gaynor at the time. We had a twofold function: one, the counterintelligence function, particularly when employees—attempts of entrapment or attempts against employees by hostile intelligence, things of that sort, plus the additional function, most traditional with General Gaynor, of putting out brush fires.

We would get a congressional inquiry, let things hit the papers, a letter would come in, or something, and we would have to find out if it was true, did it really happen.

After the break-in, like many offices we started getting people walking in saying, "I think I have something important."

I would say, "Honestly," and nine times out of ten they would say, "Well, I knew Jim in Germany."

I would say, "What else?" and, "Well, that is it."

So we were checking and found there was much duplication the first week, everyone said, "What the hell happened" a new person would check with the press.

We wound up reading this in the press, we would check with the file room and they would say, we were the first ones to try to find out if the man ever worked there.

After the first or second week it was said, "If you get any leads, if you know, tell them, not people working on them, it was Mr. Security Officer No. 1, don't work on them, if you know tell Mr. Security Officer No. 2 and they will pursue them. Too many people are running in different directions and we have to get it nailed down."

Paul came in and said he heard this—and, incidentally, it was a subsequent conversation in which he said—he sort of shook his head and said, "I heard accidentally that something had been burned in the fireplace of Mr. McCord's home and they forgot to open the damper and as a result smoked up the place and had to re-paint the living room."

And thinking of it over the weekend—I did not recall this last week, I was trying to think, why wasn't Paul really concerned about it from the Agency point of view, why was he telling it as just an anecdote?

We thought it was rather a stupid incident, not opening the damper.

Mr. NEDZI. Is that the only part that was "stupid"?

Mr. SAYLE. This is it. He was not upset about the Agency.

General Gaynor is a man of unquestioned integrity, and Paul would be the first one to go through the roof and have a change of expletives to describe anyone who did something like this to the organization.

And I seem to recall, and I don't know whether this was in discussion with him or conjecture afterwards, the words "Christmas Card Lists," which came to me over the weekend, and then I returned—at the time I went home, at night, and looked at my Christmas card list to see if McCord sent me a Christmas card, which he had, and it dawned on me something had been burned and I get the word "Christmas card list," but I don't think General Gaynor knew any details. But he was not concerned from the standpoint of it being Agency. He said he had gotten word Pennington assured us there was nothing involved, no Agency documents Jim has taken with him.

We are very concerned—we have sent out at a subsequent time letters to all employees saying, "Do you have any materials that belong to the Agency, if so, please return them, if not, would you give us an affidavit you don't have them."

And I believe General Gaynor was quite relaxed from the fact the Agency was not involved and, if anything, we would be probably looking for something, Jim's collection of Agency personnel names, things of that sort. This is my reading of it 2 years later.

At that point, between like, all information, I went to Security Officer No. 1 and told him, "Security Officer No. 1 this is rather sensitive because you do not know the man involved, it is a long time,"—

and I think I used the words "confidential informant." Actually, I don't think the relationship is that close—. " * * * is involved in this thing. He has been into Jim's place and I heard they actually burned Christmas card lists, or something that could relate to the Agency, and if anything comes up, the name is 'Pennington.' "

Maybe I did not tell him the first time.

I said, "If you hear anything at all, come back to us, because we have the control over this man's files, come back to us, and this is where you start."

We gave Security Officer No. 1 a lot of leads in this regard. Little things came in, like about Jim might have been in one of our offices.

We gave him the lead.

Several months later we went back on that lead and found he had not been. I would say many of the leads we got at that time were total garbage, speculation, rumor, some second- and third-hand hearsay from a Washington newspaper. But by the time it reached us it was a fact. And it was a matter of trying to fall back and finding out it did not occur.

Then at that point I told Security Officer No. 1 and I would say—I might point out that we also had instructions we were not to try. They said it had been compartmented, "just feed your leads to them, they will come to you with specific questions, but don't you go nosing around about anything you find out, just turn it over" to them.

I think about 2 months later Security Officer No. 1 came back to me—I think an hour or so after General Gaynor told me this, Security Officer No. 1 asked me a specific matter, and it was funny, because it was the wrong person, definitely, I recall I said, "No, definitely that is not the man you are looking for."

And this is the occasion I told him, "Security Officer No. 1, if anything comes up about someone looking at the papers, or possibly a fire"—I think I said "smoke"—"bomb, come to us, because we might be able to give you more on the lead and tell you where to ask."

Two or three months later, as a guess, Security Officer No. 1 came back and said he was supposed to get the story from us specifically.

I said, the best source would be Paul. I think I was not in at the time—this is General Gaynor. And I said, as I recall this—I do not recall exactly what I told him. They told me Security Officer No. 1 had documented three rooms had to be repainted. Well, I do not remember three rooms. And they did not mention the Christmas card list, but I recall that list now, but I might not have mentioned it at the time.

This essentially is it.

And, honestly, my second assignment since leaving General Gaynor's shop—I am on my second assignment, and I had forgotten about it until we had—when they summoned me.

Oh, to backtrack, security officer No. 1 made a point of this, he asked me, "Do they know about this up front?"

Obviously, he was concerned because he would have to carry it up front if I did not. And I said, "It is my understanding," and I don't know whether I said Mr. Osborn, the front office, the people up front, the staff meeting; in other words, because each of these leads might be reported—would be maybe reported in the Morning Star, and some-

one would say, "I will pursue." So I am not sure just what I said. But it was—I understood General Gaynor had gone up front about it. And he said, "Good."

When he called me to Mr. Kuhn's office, they said, "Recount the story as you recall it." I said, "I have really forgotten it." And I repeated it as I have told it here, but in less detail, because I did not remember that much. And they said, "Did you tell us Paul told us up front?" And I told them I couldn't recall whether it was Paul that reported to the front office. Maybe Mr. Osborn was out and somebody was sitting in for him. I don't know.

Mr. Gaynor, I would say during this week or two, was up in the front office a dozen or so times, any time a lead came in that looked like it might lead to something, he would dash it up front as fast as he could, and I would pass it on to Security Officer No. 1.

Mr. NEDZI. What happened up front?

Mr. SAYLE. We were down the hall. Mr. Gaynor felt we better get hopping on something and find out if it was true or false, he would try to fill in someone at the appropriate command level and I would generally contact Security Officer No. 1.

Mr. NEDZI. The command level at that point is who? Mr. Osborn? Mr. Kuhn?

Mr. SAYLE. There is a director of security and the deputy. There was also a deputy director of security for personnel security.

So it dealt with people—the deputy director of personnel security.

One thing came up with the V-Cameras, that worked out so I could go to the physical and technical security people, because it dealt with the V-Cameras.

During those weeks Mr. Osborn was upstairs to our senior level meetings quite a bit. Frequently I was in there. Mr. Gaynor came back and asked if Gene was in on this. The first week was turmoil. After it settled down, Mr. Kuhn was the coordinator for a while, after that I think Mr. Kuhn took it over—I was out of it by then, but generally my contact was with Security Officer No. 1. Our office was a brushfire office, so we have a lot of agency employees who spontaneously walked in, or would come in and would say, "I have something you better know about. There is a sense of security in our agency where people do this. Our people are strongly motivated and come in and say I have got to tell you this, even to their own personal difficulties, and we would check it out to the best of our ability and pass it on to Security Officer No. 1. Most of it was not meaningful, just a case of someone wanting to be cooperative.

Mr. NEDZI. Did you talk to anyone else about it?

Mr. SAYLE. I may have mentioned it to Mr. Louis Vasaly, or to Mr. Pennington, who at that time had the assignment of cutting out newspaper clippings and running the names of everybody mentioned in regard to the McCord matter to find out if we knew about them, were they our people. But at that time nobody knew which end was up. He had his secretary doing it. I only remember McCord was in the security business. I only recall he was going to work with the Kennedy Foundation with regard to retarded children.

Mr. NEDZI. Did you ever meet Pennington?

Mr. SAYLE. No, only saw him once from a distance, and recognized who he was. I never met him.

Mr. NEDZI. Ever read any of his reports?

Mr. SAYLE. No. His reports, as I recall them from a previous case officer who handled them, were not reports, as such.

For example, hearings would come out, and our library manages to get hearings for us dealing with CIA about a month or two after the hearing is published. Several times I have gone to the Government Printing Office to buy them rather than wait for channels. Mr. Pennington used to go by and pick up copies of published hearings and mail them to us—through a Post Office Box, as I recall. He would send us clippings he felt dealt with the Agency. Frequently Mr. Vasaly would hand me a bunch of Xeroxes, or Thermofaxes and say here is some stuff from Penny, and, of course, I knew it was Mr. Pennington. I would not call these reports. I don't know that he ever filed a report, because I don't believe his relationship was truly an agent relationship. It is something that had developed.

Mr. NEDZI. Was McCord the one who first retained him?

Mr. SECURITY OFFICER No. 2. He was in the McCord era.

I say this because I came in while this era was really coming to an end. [Deleted.]

Mr. NEDZI. Do you have any questions, Mr. Chairman?

Mr. HÉBERT. Yes.

Did you tell Mr. McCord about the conversation with Mr. Gaynor?

Mr. SAYLE. I have never talked about Mr. McCord since the retirement party—about 2 years ago, or 3 years, perhaps. I have never talked about McCord since his retirement party.

Mr. HÉBERT. Did you tell Mr. Osborn about what Mr. Gaynor told you?

Mr. SAYLE. No, sir.

Mr. HÉBERT. You did not tell him?

Mr. SAYLE. No; I am far below that echelon.

Mr. HÉBERT. Doesn't it say in the paper you read this morning that Mr. Sayle told him?

Mr. NEDZI. No. He says he told Security Officer No. 1, told Kuhn.

Mr. HÉBERT. I thought Mr. Sayle's name was in there.

Mr. NEDZI. As the original report.

Mr. MILLER. Of paragraph 4.

Mr. HÉBERT. Sure it is.

Mr. SAYLE. I have not seen this.

Mr. HÉBERT. All right, then. It is in there.

Mr. MILLER. I see what Security Officer No. 1 is talking about. This is the first that Security Officer No. 1 asked me, when I said "Here is a lead," and this was something obviously he felt at the time should be pursued. He said, "Do they know about it up front?" and I said, "Yes; Paul has been up front."

Mr. HÉBERT. You told Osborn this?

Mr. SAYLE. No. I told Security Officer No. 1. My contact was strictly Mr. Security Officer No. 1; I was to report anything related to Watergate, or the personalities, in fact as the personalities developed, anything we heard about these people, rather than take the ball and run.

Mr. HÉBERT. Osborn says he did not hear anything from you.

Mr. SAYLE. No; I did not talk to Mr. Osborn at all. My only contact was Mr. Security Officer No. 1.

But my presumption was, when Mr. Security Officer No. 1 said "Do they know it up front," I said, "Mr. Gaynor has been up front," or "been to see Osborn," I don't know exactly how I phrased it—I really did not know he had been up there. I knew when there was a flash of air, and he went up the hall with a piece of paper in his hand, he was heading for the front office to advise them.

Mr. NEDZI. Do you know whether Pennington was reporting anything on McCord to the Agency?

Mr. SAYLE. I learned that only last week in the Wednesday meeting—it was mentioned. I can repeat it—I think you knew it. That is, Pennington relayed back not messages, but word that McCord was distressed, that they were trying to blame it on the Agency.

Mr. NEDZI. Pennington reported that?

Mr. SAYLE. I understood Pennington came back and said McCord was very depressed because they were trying to blame the Agency. I recall that word came back through Pennington. It was not a message, it was a report. I think everybody in our office heard that.

Mr. HÉBERT. McCord wrote a lot about that.

Mr. SAYLE. Yes; yes, that is an incident we found out much later, too. And that is one that upset General Gaynor just as much. He felt McCord had done him a disservice.

Mr. NEDZI. Why was that?

Mr. SAYLE. General Gaynor and Mr. McCord are not the best of friends, sir, never have been. And these—this is the letter arrangement from last year.

Mr. BRAY. I gathered from those letters that McCord did have a great confidence in Gaynor so he sent him this information for him to make use of to protect the CIA. That is the impression I got.

Mr. SAYLE. If I may, sir; I would say professionally there was a great deal of respect by Mr. McCord for General Gaynor. I think everybody respects General Gaynor. It is not a matter of integrity. Personally, General Gaynor and Mr. McCord did not associate, nor do most of the people in our shop, associate with Mr. McCord.

Mr. BRAY. Most of them did not?

Mr. SAYLE. Most of them did not.

I don't know of any who socially saw him. In effect, we thought about who was to go to his retirement party. Somebody from the shop should be there. I drew the short straw.

Mr. HÉBERT. Sort of like being a pallbearer.

Mr. NEDZI. Why this disagreement between General Gaynor and McCord?

Mr. SAYLE. Not disagreement, it is a different work style.

General Gaynor is very meticulous, very free-wheeling. And Mr. Gaynor had to do quite a bit of repair work after McCord had left the office.

Mr. NEDZI. How do you account for the letters being sent to Gaynor?

Mr. SAYLE. Again, I think it is because of General Gaynor's job as the brush-fire man, the man—In fact, as you probably know, General Gaynor told me this story before he retired, the fact the letters—

McCord didn't know where to send letters and sent them to General Gaynor's son, and it was not until after the second letter the son realized they were Franked letters, and gave it to his father. Paul showed me one of the letters and said, "We think this is from Jim," and asked "What do you think," and, I maybe shouldn't say it, I said, "I think he's flipped his wig."

He showed it to me at the time, and he said, "What do you think? Do you think this could be Jim?" He said we think this is.

Later a letter came by, and he said "This is from Jim, he signed one."

General Gaynor was kind of upset about getting the letters and very upset about McCord sending them to his son's address—the General's address. He does not like to involve family in these matters.

It has been the practice of the shop not to.

Mr. NEDZI. Any questions?

Mr. BRAY. No questions.

Mr. HÉBERT. No.

Mr. NEDZI. Mr. Sayle, thank you.

Mr. NEDZI. Will you state your name for the record?

[Louis W. Vasaly was sworn by Mr. Nedzi.]

TESTIMONY OF LOUIS W. VASALY

Mr. VASALY. Louis Vasaly.

Mr. NEDZI. Mr. Vasaly, can you describe for the benefit of the committee the kind of work that Mr. Lee Pennington was doing under your supervision?

Mr. VASALY. As a result of official reassignment my first contact with Mr. Pennington was, I believe, about mid-1970. He was actually at that point, and since, pretty much of a standby asset. He got no direct assignments that I can remember, from me. He volunteered information. As I am sure anybody who knows his background would know——

Mr. NEDZI. Whom did he replace?

Mr. VASALY. Mr. William Milligan.

He has a wealth of information, a background I am sure you know. He was able to supply information as an informant-type of person, if we had a specific request.

I do not recall ever having had one in the approximately 3 years I dealt with him.

He did on his own—he has a clipping service, he receives many publications. I am sure you know he is with the American Security Council.

He himself maintains files and records, and when he saw things in the media, principally the overt media, he thought we might be interested in a newspaper that mentioned the Agency or an Agency individual, he would supply it.

That is basically what he was doing.

Mr. NEDZI. Did he ever furnish you with any information on McCord?

Mr. VASALY. No, sir, except in the sense that if it was a newspaper article, you know, on the Watergate case.

Mr. NEDZI. Was he providing you with any newspaper articles that the Agency did not have?

Mr. VASALY. I don't know what he had access to. He had access to Philadelphia papers, New York papers, I gather he was on the mailing list, had subscriptions to a number of magazines and assorted organization papers, periodicals.

Mr. NEDZI. Did he ever report to you that he had visited with McCord?

Mr. VASALY. I knew he had visited McCord, yes, sir.

Mr. NEDZI. Did he tell you anything about those visits?

Mr. VASALY. I knew he was a good friend, had been for years. I knew he saw him frequently, or McCord came to see him.

Mr. NEDZI. That doesn't answer the question.

Mr. VASALY. I am sorry.

Mr. NEDZI. Did he ever mention to you anything about McCord?

Mr. VASALY. Yes, sir.

Mr. NEDZI. What did he say about him?

Mr. VASALY. These were a lot of visits, sir. Our conversations generally were the welfare of Mr. McCord, how he was doing, how his family was, that sort of thing.

He volunteered other things, too.

Mr. NEDZI. Like what?

Mr. VASALY. What I would assume you are most interested in as of last Wednesday, when I became aware of this interest, he did tell me on occasion, I would guess probably within the first month after the Watergate break-in, that he either had asked Mrs. McCord—this is my recollection—or Mrs. McCord asked him, to come out and assist her to go through Mr. McCord's papers; and he has done so.

Mr. NEDZI. He told you that she had asked him?

Mr. VASALY. My impression, sir, is that after this incident, being a good friend of the family, he contacted her and asked if there was anything he could do to help; or she had turned to him as a reliable old friend of the family and solicited his help. I don't know which is the case.

Mr. NEDZI. Did he mention anything about destroying any material?

Mr. VASALY. No, he did not. He made one comment to the effect that—I will try to be precise. To the best of my recollection he said he had "found nothing," or "there was nothing damaging to CIA" in the papers he saw.

Mr. NEDZI. Did he report anything else related to Watergate, to you?

Mr. VASALY. During the course of meetings over this extended period there was a period, I presume, going from memory, that must have been just prior to the trial, that he volunteered again information to the effect Mr. McCord was upset, concerned, because there was some effort to implicate the Agency.

Mr. NEDZI. Were you aware of McCord having sent letters to Mr. Gaynor?

Mr. VASALY. That would be one other thing I think he did tell me, and again I am not sure of the timing, that McCord was about to or had sent a letter to the Agency.

My impression was (1) I never knew where it went or who got it; and I didn't know, until I think it surfaced in this committee, that there was more than one.

Mr. NEDZI. Did you report that to anybody?

Mr. VASALY. Yes, I did.

Mr. NEDZI. To whom?

Mr. VASALY. My superior, Mr. Gaynor; or if he was not in I might have gone up, if I thought it was of interest, and I probably would have gone, and told Mr. Osborn.

Mr. NEDZI. Were you ever asked to check with Mr. Pennington with respect to the destruction of these papers?

Mr. VASALY. No, I was not. I was not aware of any destruction; until this past Wednesday I had not heard, to the best of my knowledge, that there had been any destruction.

Mr. NEDZI. So you did not know anything about it aside from that?

Mr. VASALY. No, sir.

Mr. NEDZI. Do you have any questions, Mr. Chairman?

Mr. HÉBERT. No.

Mr. NEDZI. Mr. Bray?

Mr. BRAY. No questions.

Mr. NEDZI. Mr. Slatinshek?

Mr. SLATINSHEK. No.

Mr. NEDZI. Mr. Hogan?

Mr. HOGAN. Where did you meet with Mr. Pennington?

Mr. VASALY. I had lunch with him almost on a monthly basis.

Mr. HOGAN. Where?

Mr. VASALY. In a restaurant in the Chevy Chase area, on Connecticut, the Burgundy Room, I think it is.

Mr. HOGAN. Who usually made the arrangements?

Mr. VASALY. I confirmed them. It was a monthly thing. I brought him his monthly payment. We met for lunch, and it was generally a social visit, and at that time he frequently had an envelope of clippings, perhaps committee reports that he thought might be of interest to us—GPO, House committee reports, that sort of thing. If he had any he had not mailed to me he would have them in an envelope and give them to me at that time.

The rest of the period, the hour, whatever, was generally social conversation.

Mr. HOGAN. When was your last meeting with him?

Mr. VASALY. In December.

Mr. HOGAN. When in December, roughly? Middle of December?

Mr. VASALY. No. I think just prior to Christmas. It was before the end of the year. It was in December.

Mr. HOGAN. Have you had any contact with him since?

Mr. VASALY. No personal contact. I have had telephone conversations.

Mr. HOGAN. Concerning what?

Mr. VASALY. The latest was this morning, half an hour before I left the office. He called me.

Mr. HOGAN. What was the substance of that conversation?

Mr. VASALY. He called me and said Saturday he had been before two, I believe he said, two Government committees and he was ex-

hausted, and the basis had been some special report from CIA, he said some of it fact, some fiction—at that point I stopped him and said “Lee, don’t tell me any more. I am in the same position. I am going to be down on the Hill myself. Don’t tell me a thing.” And that was the 1-minute conversation.

Mr. HOGAN. Thank you, Mr. Chairman.

Mr. SLATINSHEK. I have a question.

Could you tell the committee who, to your knowledge, Mr. Pennington became acquainted with McCord?

Mr. VASALY. I don’t—I would say it is hearsay. I know from conversations, so forth, and knowing both parties. It is my impression they have known each other since back in the 1950s, back so far it may have been when they were both in the Bureau, or perhaps Pennington had retired. At least it was back when he was head of the Commission at the American Legion.

Mr. SLATINSHEK. We have a memorandum you may or may not have seen—

Mr. VASALY. I have not seen it, sir.

Mr. SLATINSHEK [continuing]. Which indicates you are the case officer.

Mr. VASALY. That is poor terminology. I am his principal contact.

Mr. SLATINSHEK. I agree it is.

I gather really your relationship with Mr. Pennington was simply the conduit through which he funneled whatever information he had available to pass on to the Agency, and he did that through you.

Mr. VASALY. That is correct, sir.

Mr. SLATINSHEK. In other words, you did not lay on him any requirements. Or did you?

Mr. VASALY. Of course I thought of this since this came up, and the only requirement I can think of that I actually levied on him was to get a copy of the staff directory what was out last year, the 1973 Congressional Directory.

Mr. SLATINSHEK. How long had you operated as the case officer, for Mr. Pennington?

Mr. VASALY. 1970. I believe that is when my position changed and I became principal contact with the Security Office.

Mr. SLATINSHEK. What did you do with the information he passed to you? Send it on to Mr. Osborn?

Mr. VASALY. No. Mr. Osborn did not see it. It was an accumulation, and frankly, the usual estimate of it was that it was of very little value. Most of it ended up in the wastebasket. Some of it was reference material, House reports, that sort of thing.

Some of it, if it pertained to the Agency, would have been directed to somebody I assumed might be interested in it.

Mr. SLATINSHEK. The point I am making here is that we have a man on a retainer, albeit not very handsome—\$250 a month. But you as the case officer had him for almost over—well, for 3 years. And the material he provided, certainly from what we have heard today, was of really very little value, and material I am sure you had available, in the Agency in one form or another, otherwise.

Mr. VASALY. Much of it, that is true.

Mr. SLATINSHEK. Had it ever occurred to you perhaps his services could be dispensed with, could have been dispensed with?

Mr. VASALY. That is a judgment that was made, sir; as I am sure the committee knows.

Mr. SLATINSHEK. It was made, but apparently for other reasons.

Could you tell me why his services were terminated, to your knowledge?

Mr. VASALY. I don't know. I did not make the judgment. My assumptions are, I would guess, three: (1) budgetary, we are cutting back, (2) his services were not that valuable, and (3) the climate the Agency is now feeling, that somebody might consider this improper.

Mr. SLATINSHEK. Who made the decision to terminate him?

Mr. VASALY. I am sure the final decision had to be Mr. Osborn's.

Mr. SLATINSHEK. Who gave you the orders to terminate him?

Mr. VASALY. They came down on a memorandum signed off, I believe, at the top and through three or four levels before it reached me.

Mr. SLATINSHEK. Who signed the memorandum that indicated they advised you to terminate this informant?

Mr. VASALY. I was—

Mr. SLATINSHEK. Or was it an oral order?

Mr. VASALY. No; it was written.

I was told orally, but the instructions were on an attached buck slip to a résumé of—considering this should he or shouldn't he be terminated sort of thing, a buck slip on the top, and many people had an input, including, I am sure, Mr. Osborn, and the final statement, the decision was made, terminate Mr. Pennington.

Mr. SLATINSHEK. You don't know where it initiated? You did not make a suggestion that he be terminated?

Mr. VASALY. No.

Mr. SLATINSHEK. All you did was carry out the order?

Mr. VASALY. Yes.

Mr. SLATINSHEK. You know it came from higher authority. You are not quite sure who, but you know Mr. Osborn was in the chain of command?

Mr. VASALY. The ultimate decision would be, I am fairly certain, Mr. Osborn's; yes. The paper started as a request.

Mr. SLATINSHEK. Thank you.

Mr. NEDZI. Mr. Vasaly, you said the last time you had heard from Mr. Pennington was today.

Mr. VASALY. Yes, sir.

Mr. NEDZI. When was the last time before that you heard from him?

Mr. VASALY. I believe he called me sometime—this is an estimate—perhaps 2 weeks prior to today, maybe 3 weeks now.

Mr. NEDZI. What was the subject of your conversation then?

Mr. VASALY. I think it was very general. I recall—because I have been thinking about it—one thing he said was that he had decided he was going to drop out of the American Security Council. He has been active in that; it has taken a lot of his time; he decided to drop that.

We discussed the health of his wife, which is not so good. And I am not certain what else may have been discussed. I think he may have said that he had access, or had picked up, a couple more House publications that were in fairly short supply and we might want them.

As a result of this call, I did not even report I had talked to him; I did nothing. It was an innocuous call. I spoke to no one about it.

Mr. NEDZI. Have you reported any calls of his since he was terminated?

Mr. VASALY. No, sir. Not to my knowledge. I don't recall having any call of any substance that I would have talked to anyone about.

Mr. NEDZI. Since December how many times have you talked to him?

Mr. VASALY. This is purely a guess: I would think maybe today was the third time.

Mr. NEDZI. Each time your conversations were of a social nature?

Mr. VASALY. Principally social. Maybe he would have seen something and mentioned it to me, and said even though our association had terminated as far as he was getting paid, he still felt an urge to be helpful if he could. And if he saw anything he thought we would derive any benefit from, he would still send it.

Incidentally, the \$250 Mr. Price mentioned, it was modest. It also included his expenses; that is, he paid any expenses he had out of it—his postage, everything—so it was very modest.

Mr. NEDZI. That is Mr. Slatinshek, pretending he is a Congressman.

Mr. HÉBERT. He is trying to move in on one of these jobs.

Mr. VASALY. I beg your pardon, sir.

Mr. NEDZI. Would you regard him as a personal friend at this point?

Mr. VASALY. Yes, I would.

I offer this for what it is worth: He is one of the finest gentlemen I ever had the privilege of knowing. I am sure the committee knows his background.

Mr. SLATINSHEK. I might add here, I called Mr. Pennington, and he is coming up to see the subcommittee. He was somewhat reluctant to come up until I told him that you were here, and he was happy to come up.

So it does indicate that you have a close relationship.

Mr. VASALY. Thank you.

Mr. NEDZI. How long before he will be here?

Mr. SLATINSHEK. Half an hour.

Mr. NEDZI. Thank you very much. We appreciate your coming.

[Mr. Vasaly was excused.]

[Mr. Kuhn was called as a witness.]

Mr. NEDZI. Mr. Kuhn, you recognize you are still under oath as a result of the oath you took this morning?

TESTIMONY OF STEPHEN L. KUHN—Resumed

Mr. KUHN. Yes, sir.

Mr. NEDZI. When did you say you first became reacquainted with this problem?

Mr. KUHN. The problem of the Pennington affair?

There are two different things, sir. One was when Security Officer No. 1 last Wednesday told me that this had never gone forward.

Now, previous to this I was not aware that the IG was the focal point for material on this kind of thing. I thought this material had gone forward to Mr. Colby. For example, when I was asked to work on the Water—on our tape recording system, in January, a memo was

prepared by Joe Murphy, chief of our tech division. I felt this should not have gone to the IG but should have gone to Mr. Colby directly.

Mr. Security Officer No. 1 told me that back in January he had had a request to give the IG access to the files. I then said "What about this thing?" And he said "It contains the Pennington stuff."

I said I don't know whether Mr. Osborn would like that to go to the IG, because it was high level.

I went to see Mr. Osborn. I don't recall the sequence of when I saw him, but the first version was no, this has been held tightly.

The next day I am told by him that anything goes.

By that time I still assumed that this had gone forward. I was not aware until afterward, in February, that the IG was a focal point for all Watergate affairs.

Mr. NEDZI. When did you speak to Mr. Osborn about this?

Mr. KUHN. In January.

Mr. NEDZI. Was he aware of what was in the Pennington file?

Mr. KUHN. You know, this is confusing to me. Give me a chance to think. [Pause.]

I am sure even as of this morning or today that Osborn was aware of the Pennington document situation with McCord. This is my assumption as of right now.

Mr. NEDZI. Why do you have that assumption?

Mr. KUHN. Nothing has changed my mind that this was known to the front office.

Mr. NEDZI. Did you ever talk to him about it?

Mr. KUHN. No, sir. When the request came in to Security Officer No. 1, I had this file gone through by John Richards. I requested this, because I thought this was handled from an Osborn 7th floor direct channel.

Mr. NEDZI. Did you go talk to Osborn about it at that time?

Mr. KUHN. I went to see Osborn. I said Security Officer No. 1 says the IG has questions on this material. "Do you want them to see the material, or shall I take this out of the file?"

First he said, "Well, take it out."

Next morning he said no, give them the whole package.

I objected to Osborn giving the memo to Richards on the Agency tape situations. I felt it should have gone from Osborn to the Director personally. But I was not aware that the IG had this carte blanche at that time to handle the whole package. I was not that deeply involved with the prior Watergate affair, until January 30 when I began working on the recording machine, recording systems.

I assume that there are certain things handled from Osborn to the Director, bypassing other levels.

Mr. NEDZI. You say you were not aware of the IG being involved, until January 30?

Mr. KUHN. No; not having the sole jurisdiction, being the focal point of all material.

Mr. NEDZI. What I would like to know, Mr. Kuhn, is when you spoke with Mr. Osborn about this.

Mr. KUHN. The first time I cannot recall. Mr. Security Officer No. 1 can give you a better idea than I could give you.

Mr. NEDZI. Could it have been January 21?

Mr. KUHN. I don't know, sir.

Mr. NEDZI. What kind of conversation did you have with Mr. Osborn? What did he say? What did you say?

Mr. KUHN. I will recollect to the best of my ability right now as to what happened. This is difficult.

He, Mr. Security Officer No. 1, apparently came up, with or without Security Officer No. 2. How I am not sure—that John Richards wants to see our files of the Watergate, and should——

Mr. NEDZI. Weren't you aware of that order being issued, from another source? Is this the first time you heard of that?

Mr. KUHN. What is that?

Mr. NEDZI. That the Inspector General was coming to look at the files.

Mr. KUHN. This is the first I knew that we were going to give open access to our files to anybody.

Our files are sort of secret, the Agency security files.

Mr. NEDZI. Why give them access to everything except the Pennington matter?

Mr. KUHN. I assumed certain items went forward from our office right to the Director which did not go through other channels.

Mr. NEDZI. Why did you assume that?

Mr. KUHN. It has been historical some things were sent from Osborn to the Director.

Mr. NEDZI. In your mind why was the Pennington file in this category?

Mr. KUHN. This was raised to me that this was something real sensitive, and I assumed this was the better way of doing it. It was raised to me by Security Officer No. 2 and Security Officer No. 1.

Mr. NEDZI. Did you know what was in it?

Mr. KUHN. There was only one memorandum, which Security Officer No. 1 wrote, in the file. Am I correct?

Mr. NEDZI. No.

It is not that long ago. We are talking about something that happened—What—8 weeks or a month ago; 4 weeks, 5 weeks ago.

Just tell us what happened with this Pennington file.

Mr. KUHN. It is not a Pennington file.

Mr. NEDZI. Whatever you like to call it. The information we are discussing today.

Mr. KUHN. It is information, for the record, in what we call one of our Watergate accumulations. It made reference, again brought to my attention by Security Officer No. 1, he said "Here is a request from John Richards to see this file, and it contains this thing."

Mr. NEDZI. When was that brought to your attention?

Mr. KUHN. In January, I am told.

Mr. NEDZI. About January 21?

Mr. KUHN. I don't know.

Mr. NEDZI. You don't know whether it is about the 21st?

Mr. KUHN. To be honest, I don't know what the date was.

Mr. NEDZI. Was it the 1st of January?

Mr. KUHN. Oh, no. I was on leave on January 1.

Mr. NEDZI. I realize you have been under the weather, and I apologize for having an outburst of this sort. But——

Mr. KUHN. It was not the first part of January. If they have said the 21st I will accept the 21st.

Mr. NEDZI. How did the matter arise?

Mr. KUHN. They came to me.

Mr. NEDZI. Did you say anything to them?

Mr. KUHN. I said "This is real sticky stuff. I better go see Osborn about it."

Mr. NEDZI. And did you go to see Osborn?

Mr. KUHN. Yes. I said "John Richards has a request in to look at our files."

Mr. SLATINSHEK. May I interrupt?

Did he ask specifically to see the Pennington file, or whatever you call it?

Mr. KUHN. No. In other words, the day that happened I did not know about a Pennington file as such. We were collecting material, sir, from various people. We have what we call the Watergate files, in one of the volumes there is a memorandum which I told Security Officer No. 1 back in August 1971, "Make a memo for the record of what Gaynor told Sayle, told you. Put that in the file."

This is that memorandum in the Watergate accumulations. Again, I assume, sir, that this material was known to the front office and they had communicated this with the seventh floor in a different channel.

I did not at that time know that everything would be focalized in John Richards' office. I was not aware of that, because I was not working on the Watergate that extensively.

The same thing on the Agency recording. I objected to a memorandum going from our division to John Richards and not going to the DCI. So I will accept January 21, when they brought this to my attention and raised the issue.

Mr. NEDZI. What did they say?

Mr. KUHN. In effect they said "John Richards wants to go through our files, and this file contains this thing regarding Pennington."

I said "Well, I don't think it should go, because I better see Osborn about it."

I went to see Osborn. As I recall, and it has been refreshed in my mind, Osborn said no, take it out. Then the next morning he said leave it in, give him the whole package.

Mr. NEDZI. Did you have a conversation with anybody else on this matter?

Mr. KUHN. I told this to Security Officer No. 1 and Security Officer No. 2.

Mr. NEDZI. Was anybody else involved?

Mr. KUHN. They say we talked about this with a guy I work for, Stan Ense. I cannot recall Stan Ense being involved in this conversation. I would not have gone to Stan for guidance. I would have gone right to Osborn to ask "What do you want to do about this?" I would not have gone to Stan.

Mr. NEDZI. Are you saying you did not discuss this with Mr. Ense?

Mr. KUHN. I don't think I did.

Mr. NEDZI. Why do you say you "don't think"? This was only 3 or 4 weeks ago.

Mr. KUHN. It would not have been consistent with what I was doing, to go see Stan Ense, who was not involved in any way in what I was doing in the Watergate, to have gone to see him about it.

Mr. NEDZI. You do not think you discussed this with him?

Mr. KUHN. To the best of my recollection I did not talk to Mr. Ense about this. I know Security Officer No. 1 and Security Officer No. 2 say we did talk together, but I cannot recall talking to Stan about it.

Mr. NEDZI. You just talked to Osborn about it?

Mr. KUHN. Yes, sir.

Mr. NEDZI. And Osborn told you in the first place to keep it out?

Mr. KUHN. Keep it out.

Mr. NEDZI. Then what did you do after that?

Mr. KUHN. Late in the afternoon, I recall, he said, keep it out.

Mr. NEDZI. Then what did you do?

Mr. KUHN. Told Security Officer No. 1 and Security Officer No. 2 how "Os says to keep it out."

The first thing next morning I am told leave it in, the whole nine yards.

Mr. NEDZI. How did Osborn convey this to you?

Mr. KUHN. He called me in the office.

Mr. NEDZI. Did Security Officer No. 2 and Security Officer No. 1 talk to you the following morning at all?

Mr. KUHN. They must have. They were doing it quite a bit then. They were happier, themselves, that it was kept in the file.

Mr. NEDZI. Weren't you?

Mr. KUHN. At that point I did not know what to think. At that point I did not know what was known to the IG.

Again, I still assumed that the seventh floor was aware of the Pennington information.

Mr. NEDZI. Do you have any questions, Mr. Chairman?

Mr. HÉBERT. Yes.

You assumed that the IG was aware of the Pennington papers, you just said?

Mr. KUHN. No. I assumed the seventh floor, the DCI, was aware of this thing.

Mr. HÉBERT. Of the Pennington papers. Then why did you want to keep them out?

Mr. KUHN. I did not know why John Richards was getting involved in going through this at that time in January. Then I learned that he was the focal point.

Mr. HÉBERT. Do you recall a conversation on January 21—I am saying January 21, and you can strike the date—about January 21, that the subject matter was brought up not by these other two men but by you telling them not to let the Pennington file go?

Mr. KUHN. No.

Mr. HÉBERT. You did not do that?

Mr. KUHN. I would not have known of John Richards showing interest in those files.

Mr. HÉBERT. They brought it to your attention.

Mr. KUHN. Brought it to my attention.

Mr. HÉBERT. Following that conversation, do you recall going to Osborn's office?

Mr. KUHN. Yes, sir.

Mr. HÉBERT. Do you recall how long you remained there?

Mr. KUHN. Not long.

Mr. HÉBERT. And he came back and said "Leave it out."

Mr. KUHN. Yes. Next morning I was told "Leave it in."

Mr. HÉBERT. Mr. Osborn did know then, whether or not that date is right, he knew about this situation on the Pennington papers?

Mr. KUHN. I assume he did.

Mr. HÉBERT. Well, you talked to him about it.

Mr. KUHN. OK; he did. He did know there was a concern raised by me about this Pennington memorandum.

Mr. HÉBERT. Then he did know about the Pennington papers at about January 21.

Mr. KUHN. But when I saw him last Wednesday—now, this is the 20th of February, I went to see him because of the issue raised by Security Officer No. 1 and Security Officer No. 2 in regard to that paragraph—I told Osborn—

Mr. HÉBERT. What paragraph?

Mr. KUHN. This is in the draft of the memorandum.

Mr. HÉBERT. Which paragraph?

Mr. KUHN. Paragraph number one in the one draft memorandum was that everything—all items pertaining to Watergate had been furnished.

When I went to see him that day, to say that we have some problems here, because the boys do not feel that is accurate, because of the Pennington thing, he said "It is already in my affidavit." I said "No, the Pennington matter I am referring to is Pennington regarding the McCord papers."

He said "I am not aware of that."

I said "Well, in the memo—there is a memo in the file saying that Pennington told Gaynor, who in turn told Sayle, that he had gone to McCord's house and attempted to destroy papers."

He said "I don't recall this at all. But," he said, "go ahead and look into it."

This is why I called the meeting.

Prior to that, January 21, I went to see Osborn and said "The Pennington matter is in the file and John Richards wants to see the file. Do you think this should be kept in the file?"

Mr. HÉBERT. By that you assumed he knew what the Pennington papers were. He did not ask you what they were, did he?

Mr. KUHN. No.

Mr. HÉBERT. So he had to know what they were. Yet last Wednesday he tells you he doesn't know anything about it.

Mr. KUHN. He said he can't recall.

Mr. HÉBERT. He can't recall. But you told you let everything go.

Mr. NEDZI. Any questions, Mr. Bray?

Mr. BRAY. No questions.

Mr. NEDZI. Thank you, Mr. Kuhn.

[Mr. Osborn was recalled.]

TESTIMONY OF HOWARD J. OSBORN—Resumed

Mr. NEDZI. Mr. Osborn, we will just remind you that you are still under oath, the oath you took this morning.

Mr. OSBORN. Of course, sir.

Mr. NEDZI. Did you hear about the Pennington memorandum before last Wednesday?

Mr. OSBORN. No, sir, not to my recollection. I thought, as I told you this morning, it was either Wednesday or Thursday that they briefed me orally and I asked them to prepare the memorandum which we had this morning.

Mr. NEDZI. Were you asked by Mr. Kuhn whether a certain part of the files should be kept away from the Inspector General in January?

Mr. OSBORN. I don't believe so. I could have been. I don't believe I was.

I don't want you to tip your hand, but if I had a semi-kind of idea I might be able to remember. You can be sure I will tell you the truth, if I do.

Mr. NEDZI. That is all right, Mr. Osborn. We are not here to play games with you. It is a question of getting at the facts of the matter, and there is such a discrepancy in testimony that we thought we would give you an opportunity to clear it up.

Was Mr. Kuhn in your office at any time in January, discussing the problem of withholding the Pennington memorandum from the Inspector General?

Mr. OSBORN. In January this year, January 1974?

Mr. NEDZI. January 1974. Just 4 weeks ago.

Mr. OSBORN. That could have been possible, Mr. Chairman. That rings a bell. That rings a bell.

Mr. NEDZI. What did you tell him?

Mr. OSBORN. I think I told him that Pennington was a sensitive source, that we had established our use of Pennington in an affidavit I made, I believe, to this committee, on the McCord letters, and to Senator Symington, and that therefore I did not see any reason to expose his relationship with my office. I do remember that, yes.

But you see, at that time, Mr. Chairman, I had no idea of this. I didn't know about this. Believe me, it would have been a different story.

Mr. NEDZI. Do you have any questions, Mr. Chairman?

Mr. HÉBERT. Yes.

Did you change your mind about the Pennington papers, about withholding them; I mean the memo?

Mr. OSBORN. You mean this memo?

Mr. HÉBERT. The Pennington memorandum that we are talking about now.

Everything was supposed to have been turned over to the Inspector General, and you told them to withhold something, and you admit it now.

Mr. OSBORN. I told them to withhold the Pennington memorandum from John Richards, who was working with him on the Watergate material, I believe.

Mr. HÉBERT. That is withholding information from the Inspector General, is it not?

Mr. OSBORN. It is. But I didn't think it was pertinent information to the Watergate.

Mr. HÉBERT. That doesn't make a bit of difference. You told him to withhold this information. That is all this whole day has been spent on. Did you change your mind about it?

Mr. OSBORN. No. When it came to me in this memorandum, in the context of going into the McCord residence, it suddenly became Watergate, and then, boy, all bets are off, I don't care who it is.

Mr. HÉBERT. Why did it become Watergate?

Mr. OSBORN. Because it involved McCord.

Mr. HÉBERT. Just because he got involved in Watergate doesn't necessarily involve the Agency?

Mr. OSBORN. No. But they told me Pennington went into Mr. McCord's home and destroyed evidence.

Mr. HÉBERT. Why? Was the word Watergate used?

Mr. OSBORN. No. But they said it happened right afterwards.

Mr. HÉBERT. But Watergate was not used, just McCord was an employ of CIA.

Let's continue.

You do not recall a conversation with Mr. Kuhn the next morning, a telephone conversation, telling him to turn over everything?

Mr. NEDZI. He didn't say telephone conversation. Just conversation.

Mr. HÉBERT. He doesn't know.

Mr. KUHN. The next morning, if Mr. Kuhn says I did, I did.

Mr. HÉBERT. You did?

Mr. OSBORN. May I say one thing? The name McCord ever since Watergate, has been synonymous with Watergate, as far as I am concerned; so that is why I said the fact Mr. Pennington, if in fact he did, as alleged, go into the house, McCord's house, that was Watergate, the same as if it had been Hunt's. That is the point I started to make.

Mr. HÉBERT. That is your assumption. You said you were so sensitive about the proposition of revealing this memorandum on Pennington because he was a sensitive source. Is that correct? You said that a few minutes ago?

Mr. OSBORN. Yes.

Mr. HÉBERT. What is your definition of sensitive source?

Mr. OSBORN. A source whose identity has been protected by the Agency since at least 1955—1959—long before me, whose identity was very closely held, and I was led to believe had done some extraordinarily good things for the Agency.

Mr. HÉBERT. What would he have done for the Agency?

Mr. OSBORN. Not much, as far as I am concerned, since I became director for security. I never had much use for him, frankly.

Mr. HÉBERT. Would you call it sensitive to clip newspapers and get staff committee reports from the Congress?

Mr. OSBORN. Not really; not really.

Mr. HÉBERT. That is all he did for 3 years.

Mr. OSBORN. I know. That is why we decided to terminate him.

Mr. HÉBERT. Yet 4 weeks ago he was a sensitive source to you, after you fired him. Did you fire him?

Mr. OSBORN. No. I believe Mr. Vasaly notified him of his termination.

Mr. HÉBERT. Mr. Vasaly testified he did not fire him, he just passed on the word from higher up.

Mr. OSBORN. That he was to be terminated.

Mr. HÉBERT. Mr. Vasaly did not make the decision. Who made the decision?

Mr. OSBORN. I believe I made the decision.

Mr. HÉBERT. You made the decision that very sensitive man you would let go; and only 4 weeks ago he was so sensitive you could not reveal that document to the Inspector General?

Mr. OSBORN. Yes. I had second thoughts on that because of his involvement and personal friendship with Mr. Jim McCord, and because I did not want any more rocks being overturned in my office.

Mr. HÉBERT. You have enough of them now.

Mr. OSBORN. I certainly have.

Mr. HÉBERT. You have enough now, because this sensitive man that you fired 2 weeks ago, a month ago, you could not give information on because he was so sensitive, and all the sudden you fire him.

Mr. OSBORN. Sir, I changed my mind the next day.

Mr. HÉBERT. The sensitive end of it is what intrigues me.

Mr. OSBORN. I never met him, sir. I wouldn't know him if I saw him in this room, nor would he know me.

Mr. HÉBERT. We have got some testimony so confused and rectified and changed around, Mr. Chairman—

I just wonder—if you had only come in and laid everything on the table in the beginning, we would not have to go through this.

Mr. OSBORN. I had forgotten that, sir.

Mr. HÉBERT. We don't forget it. We could have saved a little time here.

Mr. OSBORN. I had forgotten about it. I did not talk to Mr. Kuhn, Mr. Security Officer No. 1, Mr. Vasaly, Mr. Sayle. I deliberately did not talk to them. All I did was read the memorandum this morning, and I went through three pages of Mr. Pennington's file which I solicited back from Mr. Richards for the purpose simply of jotting down how old he was, when he joined us, what he did, handwritten notes. I then returned the file by hand to Mr. Kuhn with instructions to return it to Mr. Richards. This was approximately 9:30 this morning.

Mr. NEDZI. We have no further questions, Mr. Osborn.

Mr. OSBORN. There is one point that occurred to me as I looked at some of the memorandums introduced to you since I talked to you this morning, I was on leave, in New Hampshire, from August 18, 1972 to September 4, 1972. This explains why Mr. Guise was Acting Director.

I didn't know Mr. Hollis Whittaker was involved in this until I looked at this memorandum. I would be interested in knowing what Mr. Whittaker said Mr. Security Officer No. 1 told Mr. Whittaker, because I would like Mr. Guise to have told me about it when I came back from leave. He did not.

Mr. NEDZI. Mr. Osborn, the difficulty I personally have, and I think it is probably shared by the rest of us up here, is that you have been such a reluctant witness. Your recollection of events 3 or 4 weeks ago, highly significant events, just was not there until you were really

confronted by somebody else's testimony, then you all the sudden recollect.

How can we be expected to believe you?

Mr. OSBORN. I have never consciously told a lie in my life, most certainly under oath.

Maybe my memory is faulty. I have had that problem before. If I had talked to Mr. Kuhn in more detail and depth he would have reminded me of this, and I would have told you promptly this morning. You know that.

I am not making a self-serving statement, but the job of Director of Security of an agency of the size of this Agency is not an easy one, and I have a full calendar, and a lot of things I do, you know.

If I have neglected something it is through forgetfulness, through no intent. I believe Mr. Colby will tell you that I have forgotten certain things promptly which were very sensitive, not necessarily on Watergate, which affect the Agency I have served for 26 years.

I plan to retire in June. Perhaps my successor will do a better job.

Mr. NEDZI. Any questions?

Mr. BRAY. No. questions.

Mr. HOGAN. No. questions, Mr. Chairman.

Mr. NEDZI. Thank you, Mr. Osborn.

Mr. COLBY. Mr. Chairman, if you are going to talk to Mr. Pennington, I don't think it is appropriate for us to be around.

[The room was cleared.]

[Lee R. Pennington was sworn as a witness, by the chairman of the subcommittee.]

Mr. PENNINGTON. Gentlemen, your next victim.

Mr. NEDZI. Hardly, Mr. Pennington.

Will you state your name for the record, please?

TESTIMONY OF LEE R. PENNINGTON

Mr. PENNINGTON. Lee R. Pennington.

Mr. NEDZI. Mr. Pennington, you were a contract employee of the CIA?

Mr. PENNINGTON. I don't know whether you would class it as contract or not. I was used in the capacity of a consultant at \$250 a month. I have never signed any papers of any kind with the Central Intelligence Agency.

Mr. NEDZI. Were you given any assignments by the Agency?

Mr. PENNINGTON. Yes; initially, right after OSS was consolidated with CIA they felt there were a good many individuals in that group who might be of questionable loyalty. So they asked me to do some research. I have a very comprehensive library of my own, and in addition to that I was using the files of the National American Commission of the American Legion, and when they would give me a name of an individual they thought might be hewing to the line, I would research to determine whether it was possible to find anything either favorable or unfavorable.

Mr. NEDZI. This was back in 1947, 1948?

Mr. PENNINGTON. Oh, no, let me see: I retired from the FBI in November 1953. And I then became the director of the American

Legion's National Americanism Commission. As such I came in contact with representatives of the Central Intelligence Agency, and they found we had rather comprehensive files dealing with the activities of subversives or alleged subversives, and they could come over and I would just tell them, "There are also files. Make whatever search you want."

Mr. NEDZI. You were not assigned any specific projects or specific contacts to make, of any sort, were you?

Mr. PENNINGTON. No, no.

Mr. NEDZI. During the last 3 or 4 years you had absolutely no direction from them?

Mr. PENNINGTON. There has been no direction.

What I did during the period I was with the American Legion and before I retired from the FBI, I developed contacts throughout the United States who would feed information in to me.

For instance, one lady in particular, up at St. Paul, joined the Communist Party not through our solicitation but under a name, and she was feeding us information she got from their meetings. I in turn would feed it to perhaps—perhaps send it to the Internal Security Subcommittee, the House Committee on un-American Activities, now the House Internal Security Committee. Whenever I got information I thought would be of value to Government agencies I would channel it right in to them.

Mr. NEDZI. You were acquainted with Jim McCord?

Mr. PENNINGTON. Quite well. He was the first one who came over from the Central Intelligence Agency to secure information, from national headquarters of the American Legion. And we began to get acquainted on a more or less personal basis.

Mr. NEDZI. Did you know his wife?

Mr. PENNINGTON. Ruth? I know her quite well. My wife and I know the whole family.

Mr. NEDZI. It has been alleged that you had gone to Mr. McCord's home after his arrest, and to his office, and destroyed certain documents pertaining to the Central Intelligence Agency. Will you give us your version?

Mr. PENNINGTON. May I give you the whole story right straight through?

Mr. NEDZI. Please.

Mr. PENNINGTON. They told me, one of the group interviewing me, that Mr. McCord was arrested on the 17th. We saw articles in the paper, and on or about the 22d my wife and I were sitting at home—in the morning; we knew Mrs. McCord had considerable difficulty. She has one daughter with somewhat arrested development. Mrs. Pennington said, "You better go on up to the McCords to see if you can give Ruth any assistance whatsoever."

So I just hopped in my car and went on up there, and things were in quite a turmoil when I got there. Apparently they had burned considerable material that was in the house, and they—

Mr. NEDZI. To whom are you referring as "they"?

Mr. PENNINGTON. The McCord's house.

Mr. NEDZI. Who had burned the material?

Mr. PENNINGTON. I don't know who it was, whether it was Ruth or the daughter, or who.

Anyhow, when I got up there apparently they had started to burn whatever they had without opening the flue, and as a result everything was black all the way around, and up on the second floor, and they said that Jim wanted the material in his house burned.

I subsequently learned—not at that time, but somewhere along the line I learned—that a couple days after Mr. McCord's arrest Mrs. McCord had a bomb threat. And I was informed later that the reason, when Mrs. McCord went over to the jail and came back, Mr. McCord wanted papers—he said that an alcove in his kind-of-living room there, was—constituted an office, and he had all kinds of papers of every kind in there, and he had all kinds of papers, piles of newspaper clippings, magazines, and everything under the face of the sun, that had never been filed.

And when he talked to me later he indicated that he was afraid from this bomb threat that somebody would throw some kind of bomb in there and if it ever hit the papers in that office of his the whole place would go up.

So when I arrived there——

Mr. NEDZI. When did he tell you this?

Mr. PENNINGTON. Subsequently, I don't know. I don't remember the exact date. But it was subsequently, because I did not see him, all I saw was Mrs. McCord, the daughter, and two friends of mine, one of whom had been Mr. McCord's secretary, Mrs. Sweeney.

They were all there, and Mrs. McCord was throwing stuff in the fire. I guess I was there less than an hour, and I happened—the way CIA came into this thing, I happened to pick up, I don't know whether it was a jacket, or something, that had CIA on it, and I glanced at it, did not go into it in detail, then I threw it back on the pile of that material that she was burning.

I then, due to my involvement with the Central Intelligence Agency, when I got back home I telephoned and told them I had seen a jacket there——

Mr. NEDZI. Whom did you telephone?

Mr. PENNINGTON. I am not sure, whether it was Gaynor or Lou Vasaly. I think it was Gaynor.

Mr. NEDZI. How did you happen to know Gaynor?

Mr. PENNINGTON. I had gotten in contact—I used to give them a good deal of material I had picked up, some of it coming from subversive groups, some from right wing; it was covering the waterfront; and we had lunch together.

As a matter of fact, at these lunch meetings we never did discuss anything, because it was in the open cafe, usually the Burgundy Room out on Connecticut Avenue, and Nebraska.

I got acquainted with Paul then. And, I don't know, we had similar experiences in the war together—not in the same units, but along similar lines, and as a matter of fact one of the times he came to lunch he gave me this pin [indicating].

So I relayed that information to somebody over there.

To continue with that, it appears that at some time a memorandum was written over at the Central Intelligence Agency, that was a mixture of fact and fiction. Because when I heard the last sentence in that memorandum I said, "Whoever wrote it was a damned liar," because the implication was there that the Central Intelligence Agency

had sent me over to go through Mr. McCord's records to see if there was anything of theirs there.

Now, gentlemen, the only thing I saw at all was this jacket that I picked up and dumped down in the stuff that Mrs. McCord was in the course of burning.

Mr. NEDZI. She was burning cloth?

Mr. PENNINGTON. No. The papers she was throwing——

Mr. HOGAN. A paper jacket.

Mr. NEDZI. Oh, you are talking about a paper jacket. A book jacket? What do you mean by "jacket?"

Mr. PENNINGTON. I don't know whether it was just a manila folder. In other words, I picked up something with "CIA" on it, and there were a few loose papers in it. Well, after being questioned—I could not tell you what they were, but after being questioned twice Saturday, I called Mr. McCord on the telephone and said, "Jim, do you have any recollection of what was in that file, or whatever it was I picked up and dropped back on the pile relating to the Central Intelligence Agency?"

He said, "Yes." He said he had a small folder there containing correspondence back and forth relative to his anticipated retirement. He said also in that same file—or jacket, or whatever you choose to call it—there was a letter of commendation which he had received from the Central Intelligence Agency due to the fact that he had gone out and made an address for them after his retirement.

I said, "Is that all?" Due to the implications in questioning me, I said, "Is that all you had of Central Intelligence Agency?" I said, "There is an implication concerning files."

He said when he left the Central Intelligence Agency there was not one single file taken out. He said the only other material relating to CIA that he had was in his desk in that alcove, which had contained his retirement papers. In other words, he insisted to me that the material that was being burned was personal and that the reason he had instructed Ruth to burn it dated back to that bomb scare a couple days after he was arrested.

Now, I saw no paper—I did not see the stuff that was in his desk drawer. All I saw was this envelope I picked out, and it did not register with me, just had "CIA" on it, and that is the reason after I was questioned twice Saturday I called him hoping he could tell me what was in that envelope.

Now, from the questioning of the committee there appears to be—they had a, I think, 7-page secret memorandum. And, gentlemen, the last paragraph in there made me feel like I wanted to go swinging on somebody. There was an inference that the Central Intelligence Agency had sent me up to McCords to go through whatever files he had and remove anything relating to the Central Intelligence Agency. They never at any time requested that I go up and get files, or look for files.

There is a twisted and distorted 7-page so-called Secret Memorandum, excerpts from which were read to me by Senator Baker last Saturday night.

Out in the hall just now I asked Fred Vasaly, I said, "Who wrote that memorandum?" I said, "I would certainly like to swing on him."

You know, gentlemen, after a certain time you kind of get your Irish up.

I am open to any questions you desire to ask.

Mr. NEDZI. We certainly appreciate your coming down, particularly on such short notice.

Obviously you are a very key element in this whole drama, and it has turned into that.

Mr. PENNINGTON. It has. But you know, Mr. Congressman, I think somebody has pieced together material over there at the Central Intelligence Agency and built up—

Oh, I will tell you another thing I forgot.

After Mr. McCord was released on \$100,000 bond he came to me and stated that his attorney was endeavoring to get him to involve the Central Intelligence Agency. He told me that the Central Intelligence Agency had nothing to do with it, he was no longer employed by them, but he did write a series of five or six letters to Mr. Gaynor, which went on into their files.

Mr. NEDZI. McCord told you that?

Mr. PENNINGTON. Yes, sir. Now, he came to me after he thought his attorney was trying to put him on the spot.

Mr. NEDZI. Was he aware of your association with the Agency?

Mr. PENNINGTON. Yes, because he was responsible for it in the first place.

Mr. NEDZI. Did he ever ask you to convey this kind of information to the Agency?

Mr. PENNINGTON. Yes. He suggested that I inform the Agency that he thoroughly distrusted his own attorney, and I implied from that—he did not say so, but I implied perhaps he thought the attorney and the prosecuting attorney were playing ball together.

Now, that is only conjecture on my part.

Mr. NEDZI. Did you report that to Agency?

Mr. PENNINGTON. As I recall it I just reported what he told me, that is attorney—and he was trying to—that he was trying to involve the Central Intelligence Agency. I did report that. I don't know whether—I have never been over there at all. I just, if I picked up something of that kind—

Frankly, I am sorry I got mixed up in it, but due to our friendship with the McCords we were trying to help.

Mr. NEDZI. Do you remember to whom you reported that?

Mr. PENNINGTON. I don't know whether it was Gaynor or Vasaly. I am not sure.

Mr. NEDZI. Do you have any questions, Mr. Chairman?

Mr. HEBERT. No.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. Thank you, Mr. Chairman.

At the time you arrived at the home where the burning was in process the damper was straightened up by the time you got there?

Mr. PENNINGTON. Yes, sir, and there was no longer any smoke in the house. Just the whole place was blacked up, on the floor above, too. I walked up and looked around there.

Mr. BRAY. It showed there had been somewhat of burning before?

Mr. PENNINGTON. Yes, sir. And the burning continued. And I don't see why they didn't throw them in the trash, because there were all kinds of newspaper clippings and magazines lying around there in a bunch. He must have had—I did not see it in his office—because it had been cleaned out and taken to the fireplace, but it must have been a good place for a possible fire, the way he had stuff apparently stacked up in his office.

Mr. BRAY. There—McCord never asked you to go there to do any of that?

Mr. PENNINGTON. No, sir. You see—

Mr. BRAY. I want to make it clear for the record.

Mr. PENNINGTON. Yes. You see apparently—he was arrested on the 17th. When I went up there, according to my diary, or the other records—I am not sure what day it was I went up, my wife thought maybe I could be of help. But Jim was in jail.

Mr. NEDZI. And the Sweeneys were there helping her burn this stuff?

Mr. PENNINGTON. They were there helping her.

Mr. BRAY. Who are the Sweeneys?

Mr. HÉBERT. The Secretary.

Mr. PENNINGTON. Mrs. Sweeney was his former secretary. Apparently a love match was made of it—Mr. McCord got very well acquainted with Sweeney when he was my assistant at national headquarters of the American Legion, and they would invite some young lady out, and Sweeney, as a guess, and he finally married Lucille.

Mr. BRAY. Are both the Sweeneys still living?

Mr. PENNINGTON. Oh, yes. They were testifying right after I did today.

Mr. BRAY. I see.

Mr. PENNINGTON. They live down at a suburb of Annapolis.

Mr. BRAY. What does Sweeney do now?

Mr. PENNINGTON. He is working for the Post Office Department. I don't know what section he is in. But he went to work for—after he left the House Committee on Un-American Activities, as it was named at that time, he went to work for the American Security Council, by whom I have been employed a considerable period, and he was in the Chicago office, and they started moving; they acquired five enormous libraries, and they were moving them down to Boston, Virginia, and wanted Mr. Sweeney to go down there, because he was an excellent research man. But he was unwilling, he owned his home in Annapolis. He was out of work for a while, then got this job with the Post Office Department.

Mr. BRAY. From your observation of what was burning at the time you saw, were there just specific papers being burned, or were they burning all books, papers, and so on?

Mr. PENNINGTON. As far as I could see, they were just burning all books and papers.

I asked him about that.

You see, I could not answer all the questions that were shooting at me Saturday. So when I called him he said they were all personal papers, and then these other records I saw, magazines, and things, that he had collected for a long time.

Mr. BRAY. That is all.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. One question, Mr. Chairman.

Mr. Pennington, at one time did you deliver some information to the CIA with regard to a Jack Anderson column that had to do with the CIA? Do you recall?

Mr. PENNINGTON. I don't recall. I may have.

I will tell you this way: There was a chap here in Washington, now dead, who got out a publication called "Capsule News," Morris Bealle and apparently his publication was widely distributed up here on Capitol Hill. I don't recall that they asked me for anything on that.

Mr. HOGAN. You could have volunteered it; couldn't you?

Mr. PENNINGTON. I could have; yes.

Mr. HOGAN. Where in the Post Office is Mr. Sweeney working? Here in Washington?

Mr. PENNINGTON. Here in Washington.

Mr. HOGAN. Thank you.

Thank you, Mr. Chairman.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. Mr. Pennington, you were a consultant with the CIA for a considerable period of time.

Mr. PENNINGTON. That is true.

Mr. SLATINSHEK. I understand that relationship was terminated.

Mr. PENNINGTON. On December 31.

Mr. SLATINSHEK. Could you tell us what Mr. Vasaly said was the reason for this rather surprising action?

Mr. PENNINGTON. Yes.

He indicated that they were curtailing expenses and that there was general turmoil in the office as a result of retirements and things of that nature, and generally it was on the basis of retrenchment.

I tell you, gentlemen, I told him several months before, I said, "The information I am picking up from various sources and handing you I don't believe justifies \$250 a month, and I think you ought to cut it out."

I told them that because, hell, I don't like to take money if I have not earned it, and he said—the answer to that was, "well, they wanted to retain me just in case they needed me."

It was just like in the FBI during World War II, I had entire charge of the program building up contacts. The then national commander of the American Legion came to Homer Cummings and Mr. Hoover and tendered the Legion's services. Mr. Hoover remembered that vigilante group that raised the devil in World War I and made nuisances out of themselves and injured quite a few people by their activities, so he called me on the buzzer and said, "Lee, come up." He said, "Do you recall the vigilantes?" I said, "I carry a card but I am not very active," and he said, "You are going to get active right away," because the national commander of the American Legion was there. We built up approximately 70,000 confidential contacts throughout the United States very few of whom we ever used, but we had them spotted so in the event the necessity arose we had somebody we could go to.

We could not take on a man as a contact who used alcoholic beverages to excess.

I had the program of working with the Legion's National Director of American Commission and our 56 field offices, building up those contacts. The only headache I had about it afterward was they said, "You came and made me a contact but you never called on me to do anything."

Mr. NEDZI. Any further questions?

Mr. SLATINSHEK. No, sir.

Mr. NEDZI. Mr. Pennington, on behalf of the subcommittee we are very grateful to you for your prompt responses.

Mr. BRAY. I think you have added a great deal of light to this whole thing.

Mr. HÉBERT. The only light.

Mr. NEDZI. The only light.

Mr. PENNINGTON. That memorandum, with that last paragraph, it got under my skin like nobody's business.

Mr. NEDZI. Mr. Pennington, thank you very much.

The committee will stand in recess until further call of the Chair.
[Whereupon, at 6:15 p.m., the subcommittee was recessed.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Tuesday, February 26, 1974.

The subcommittee met, pursuant to adjournment, at 10:00 a.m., in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The committee will come to order.

Mr. Gaynor, will you raise your right hand?

[Whereupon, the witness was sworn.]

Mr. NEDZI. Mr. Gaynor, will you state your name for the record?

TESTIMONY OF PAUL F. GAYNOR

Mr. GAYNOR. Paul F. Gaynor.

Mr. NEDZI. Mr. Gaynor, I assume counsel has advised you as to the purpose of our asking you to appear before the subcommittee?

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. Could you tell us now in your own words just what happened with respect to this so-called Pennington incident?

Mr. GAYNOR. Lee Pennington was a paid informant of my staff, which was part of the Office of Security of CIA. He had no contractual relationship. He had no rights that a Government employee would have. He was purely on a paid-informant basis, on a monthly arrangement which could be terminated by me at any time.

I believe this arrangement was originally set up by Mr. McCord, at the time——

Mr. NEDZI. When did you first become acquainted with him?

Mr. GAYNOR. It would have been after I returned from overseas, in the fall of 1959, or maybe early 1960. This arrangement was on-going at that time. I met him through Mr. McCord.

Mr. McCord at that time was my deputy. In the early part of 1962 he was designated for an overseas assignment, and seemed to be active in the function of my office, and I had to carry him on the payroll until he left, while he was undergoing training, processing.

So the handling of Pennington was turned over to me, and I designated one of my branch chiefs to be the case officer.

The purpose of this arrangement was following the far out leftist and rightist movements in this country, principally those attacking the Agency or attempting to cause harm to the Agency and its operations. He was admirably suited for this purpose, because he had been a very high-ranking official of the FBI; I believe he was Associate Director when he retired.

He was then with the American Commission of the American Legion. I believe he retired from that, then became Washington representative of the American Security Council, which gives security advice and guidance to private industry, in the main.

So he had a wealth of background knowledge of the subversive trends, you might say.

He would collect literature, materials, broadsides, leaflets, pamphlets, circulated by these various elements.

That was the nature of relationships through the years.

To get down to the present situation, at the time Mr. McCord was arrested in the Watergate break-in Mrs. McCord called Mr. Pennington to tell him, and asked him to come to the house and see what, if any, papers were there that Mr. McCord had accumulated which could be—which could represent a security breach or security compromise to the agency. In my understanding this represented the type of material a retiring Government officer could take with him, such as I took with me when I retired last June—personal actions, perhaps letters of commendation, holiday greetings, could be movement orders, courier orders. But a number of these would not bear the label of CIA, they would be unclassified for some other Government department; but it could be a security compromise because there might still be people with whom he had been affiliated under another label in an overseas assignment, who were still serving overseas. It could cause a compromise if some of these things got into public hands.

So Mr. Pennington went to the McCord home, I don't know the exact date, perhaps 1 or 2 days after the apprehension. He proceeded to burn this material, or some of it, anyway, in the fireplace.

What made it stick in my mind was that he neglected to open the damper, so he smoked up the rooms of the first floor and ground floor—I don't know the layout of the house, I have never been in it—to the extent that they had to be repainted.

I believe he phoned this in to the officer on my staff who was his then current contact, Mr. Louis Vasaly; I think I in turn advised my chief, the Director of Security, Mr. Osborn. I don't believe I put that in writing. My usual procedure, if there was anything significant, particularly during the period while Mr. McCord was in prison, was that I would handwrite on a printed form a memorandum for the record, with ruled lines, I would handwrite whatever I thought I should pass on to Mr. Osborn, whatever Pennington had to offer. I would either seal that in an envelope and have my secretary take it to his office, or if I had some reason to see Mr. Osborn, or was going that way, I would take it with me.

I cannot specifically put a number on how many of these memoes I may have created. It might have been half a dozen or so. This was in the latter part of the summer of 1972, down through the fall, until Mr. McCord was able to make bond. The sum and substance of them were such things as the family situation, the bad effect his absence from home was having on his retarded daughter, with whom he had a very close relationship; pressure was building up on his wife, the difficulty he was having in making bond, because the requirement was \$100,000 in cash. He did have some unknown-to-me individual who was willing, evidently, to come up with the equivalent in securities, but that did not satisfy the requirements of the court.

Mr. NEDZI. Where were you getting this information?

Mr. GAYNOR. Pennington, to Mr. Vasaly, to me; or on occasion—once a month we usually met with Pennington for lunch, and I would

make, say, the meeting once in every 3 or 4 months, I would be with Vasaly. It would come to Vasaly in one of these sessions, and he transfer it to me, or it would come to me.

Mr. NEDZI. You made memorandums of these meetings?

Mr. GAYNOR. Handwritten, which I transferred to Mr. Osborn.

Mr. NEDZI. What normally happened to those?

Mr. GAYNOR. He would initial off on them, pass it back to me, and I would pass it to Vasaly to be placed in the Pennington file.

One of the problems of raising bond, as I recall, Mrs. McCord had been able to come up with around \$40,000, the problem was to get the rest. I don't know actually how that was resolved.

Another thing was the terms of his incarceration in the D.C. prison. He was about the last man in line to get a newspaper in a cell block, he was not allowed any other reading materials, which to a guy of McCord's bent was a deprivation.

She was allowed 1 hour a week to visit him. If he had any other visitors at that time, their visit was taken from her time.

I think she was allowed to provide him fresh underwear once a week, things like that.

These are the kinds of thing Pennington passed over which I relayed on to Mr. Osborn.

Mr. NEDZI. Did Pennington tell you himself about assisting Mrs. McCord in the burning?

Mr. GAYNOR. No. He passed that to Vasaly. That may have been a phone call, I believe; I am not certain. But I am told Vasaly and another officer in my office, whom I had briefed on this because he had an overall management function for me, they relate that to around—

Mr. NEDZI. Who was the other officer?

Mr. GAYNOR. Edward F. Sayle.

They relate that to June 22, I will have to rely on their statement there, because I do not recall clearly. I would have said maybe a little later, but I cannot be positive. Both of them agree it was around the 22d, and I will defer to their statement.

Mr. NEDZI. What was your reaction when you heard this?

Mr. GAYNOR. I could not see, really, the necessity, other than that there might have been things that would have compromised his previous arrangement; things like personnel actions, if this is what was involved; or the usual perhaps accumulations, holiday greetings, that sort of thing.

I could not see any particular point, because the fact of his former CIA employment was bound to come out sooner or later.

Mr. NEDZI. You do not recall Pennington telling you this personally?

Mr. GAYNOR. I do not, sir; no.

Mr. NEDZI. Do you recall Vasaly reporting to you personally?

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. What did you do when you got this information?

Mr. GAYNOR. I briefed Mr. Osborn on that. I am not sure now whether or not I wrote that up. I incline to think I did not. If I did it should be in the Pennington file. In any event I did brief Mr. Osborn.

Mr. NEDZI. What was his reaction at the time?

Mr. GAYNOR. Well, it was a matter of interest, and at the time there was sort of a feeling of shock among us who had known McCord and

worked with him, that he had gotten involved in this kind of thing. Professionally, I mean, it just didn't make much sense.

Mr. NEDZI. Was there any concern about Pennington being involved in the burning of any papers?

Mr. GAYNOR. No, sir. We did not consider that this was a case of where McCord had some illicitly acquired CIA material he had taken out when he retired. I would not credit him with doing something like that. We were not thinking in terms that perhaps this was something that really had to be gotten out of the way or he would be in serious trouble vis-a-vis the National Security Act. That was not a consideration.

Mr. NEDZI. Do you have any questions, Mr. Chairman?

Mr. HÉBERT. No.

Mr. NEDZI. Mr. Bray?

Mr. BRAY. No questions.

Mr. NEDZI. Mr. Slatinshek?

Mr. SLATINSHEK. Could you tell the subcommittee how the files were handled in respect to the Watergate matter?

It is my understanding that due to the varied demands made upon the agency for information relating to this whole affair, and their alleged involvement, that responsibility for this was centered in one office, and an effort was made to gather all the documents and keep them in that office, and therefore provide responsive replies so that they were able to cover the entire matter.

In that connection, since Mr. Pennington was involved with Mr. McCord and since he had involved himself in the alleged burning of the documents, there was information to that effect placed in the file.

We are concerned with the allegation that someone directed that this material be removed.

Could you give us an idea as to whose documents were handled? For instance, were there things that appeared in files of the kind that you would remove before the Inspector General looked at them, or did the Inspector General have carte blanche?

Mr. GAYNOR. I left the Agency right at this time, shortly after I appeared before this committee last May.

Mr. SLATINSHEK. I know you did.

Mr. GAYNOR. And I don't know the details of how that operation was carried, once I left, I was personally interviewed by the Inspector General and answered anything he wanted to know, fully. If I had been called on for the Pennington information I would have made it available.

His file was retained in my staff area, it was in the personal custody of Mr. Vasaly. It was not ever in the main office of the security file room. It was always maintained, due to the nature of this relationship, because this is something that was not widespread, it was held on a pretty tight need-to-know basis, the whole Pennington relationship, all through the years.

I don't know where the focal point may have been within the security agency or whether it was the Inspector General, or where.

Mr. SLATINSHEK. Were you in the Agency at the time of Mr. Schlesinger's period of office? And were you there at the time he issued notice to all the employees to come forward with any information that might be in any way connected with Watergate?

Mr. GAYNOR. Yes. That is what triggered our first appearance here, was fulfilling the requirement laid on us to come forward with anything.

Mr. SLATINSHEK. Was this information made available to Mr. Schlesinger, on Pennington?

Mr. GAYNOR. No, sir, unless Mr. Osborn briefed him on it; I don't know. But at that time we referred in the affidavits we submitted to this committee, this subcommittee, and to the Senate subcommittee, in the final paragraph of my affidavit I made reference to the fact we had an intermittent source of my office who through the years, or through this period, had supplied certain information about the McCord personal situation.

Mr. SLATINSHEK. If memory serves me correctly there is no reference made to his effort to assist in the burning of the documents, alleged burning of documents, of alleged documents.

Mr. GAYNOR. No, sir.

Mr. SLATINSHEK. Did you not consider that important?

Mr. GAYNOR. With hindsight it looks different today. But at the time of the Watergate break-in it looked like a pretty amateurish misdemeanor, breaking and entering; at that time it did not assume the proportions it later assumed.

Mr. NEDZI. Referring to the Watergate break-in?

Mr. GAYNOR. Yes; the Watergate break-in.

Mr. SLATINSHEK. I am referring to the burning.

Mr. GAYNOR. Well, you see, when Pennington advised us of this was a matter of a few days after the break-in, and the thing had not assumed the proportions it subsequently did.

Mr. SLATINSHEK. You did not think at the time this was important enough to call to Mr. Schlesinger's attention?

Mr. GAYNOR. No, sir.

Mr. NEDZI. Mr. Chairman.

Mr. HÉBERT. When was the last time you talked to Mr. Osborn?

Mr. GAYNOR. I called him last night just to let him know I testified before the Watergate grand jury yesterday.

Mr. HÉBERT. Did you discuss the testimony?

Mr. GAYNOR. I did not discuss the nature of my testimony. I just said Watergate committee.

Mr. HÉBERT. What did he tell you?

Mr. GAYNOR. He just said, "Well, good luck." And I told him I had been asked to appear here this morning.

Mr. HÉBERT. He did not discuss his appearance here yesterday?

Mr. GAYNOR. No, sir. I did not know he appeared here yesterday.

Mr. HÉBERT. When was the last time you talked to Mr. Sayle? Is that his name?

Mr. SLATINSHEK. Sayle.

Mr. GAYNOR. Sayle? Shortly before Christmas, I think. He is not—he is on the Arlington Crime Committee, or something, strictly extra-curricular, citizens, and I had a neighborhood break-in, and the police had been pretty lackadaisical, so I called him one night to tell him—he is sometimes up at our police department—to get more action on these robberies. That was the sort of discussion.

I have not discussed Agency business with Sayle.

Mr. HÉBERT. Was he not the contact with Pennington?

Mr. GAYNOR. Louis Vasaly was the contact man. I have not talked with him since I was out in the building to get an Agency award October 19, and he was a guest and came by and congratulated me, and walked out of the room.

Mr. HÉBERT. Vasaly is the man who met every month with Pennington?

Mr. GAYNOR. Yes, sir.

Mr. HÉBERT. Did you consider Pennington very efficient at what he was doing?

Mr. GAYNOR. I have a very high regard for him as a person. I think he is well-grounded, and the material for the purposes for which we used it—I think he is as patriotic a citizen as I ever met; and I think age is taking its toll. He was an officer in the First World War, so he is, I imagine, between 78 and 80 now. But I still think his mind is very good.

Mr. HÉBERT. Back to burning of the papers: Anything you said regarding the papers, or anything you say relative to the visit of Pennington to the McCord house, is all secondhand, not from Pennington?

Mr. GAYNOR. Yes, sir.

Mr. HÉBERT. And you could be in error in repeating these facts?

Mr. GAYNOR. I could.

Mr. HÉBERT. You don't know.

Mr. GAYNOR. That is why I could be wrong as to the date, for example.

Mr. HÉBERT. No. For instance, if Mrs. McCord called Pennington, you don't know that to be a fact?

Mr. GAYNOR. No, sir.

Mr. HÉBERT. And Pennington burning the papers?

Mr. GAYNOR. That is hearsay.

Mr. HÉBERT. All hearsay.

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. Why did you talk to Mr. Osborn yesterday, Mr. Gaynor?

Mr. GAYNOR. This was a series of events starting Saturday afternoon when Mr. Thompson of the Select Committee of the Senate was trying to reach me. Mr. Balboa of the Prosecutor's staff was trying to reach me. And they had some difficulty, because I have an unlisted phone number, which does not relate to this situation at all, strictly a family matter concerning my wife's health.

So once I made the appointment with Mr. Thompson for Sunday afternoon, the FBI agent came out to serve me with the subpoena for the grand jury yesterday.

I called Osborn to advise him. I wanted someone in the Agency to know I was being called to testify, so I called him to advise him. And I called him back on Sunday night to tell him I had 3 hours with Mr. Thompson and Senator Baker, 1 hour with Senator Baker and the rest with Mr. Thompson and two of his assistants, and that it was the Watergate matter.

Last evening I called him to tell him I had a preliminary interview with two of the attorneys of the Prosecutor's staff, for 15 or 20 minutes, and then a 15-minute appearance before the grand jury.

He merely accepted the information. We did not go into who struck John, about any details.

Mr. NEDZI. Did he indicate to you that he had appeared before this subcommittee yesterday?

Mr. GAYNOR. No.

Mr. NEDZI. Did this Pennington matter come up at all in meetings or conversations between the time you first heard it and the last week?

Mr. GAYNOR. No, sir.

Mr. NEDZI. You—

Mr. GAYNOR. In fact I did not know, until Sunday afternoon, didn't know what was at issue. As I protested to Mr. Thompson, I said:

I have already testified before two congressional committees, been interviewed by the FBI and by the Inspector General of the CIA on the Watergate issue. And what can I now add at this late date when I am much further away from it?

And I said this is nothing new and different, and all I could say that he played a role in would be with reference to the last item I put in my affidavit to the fact we had an intermittent source who provided us with some information about Mr. McCord. I made the assumption that is what Mr. Thompson was after.

Mr. NEDZI. There has been no discussion in your presence of this particular aspect of the case since you first got the word from Vasaly?

Mr. GAYNOR. No, sir, I have had no connection with Vasaly that I can recall, since October 19. That was merely a handshake.

Mr. NEDZI. But this goes back a year previously. In the course of that year did this particular question ever arise?

Mr. GAYNOR. Not that I can recall, sir.

Mr. NEDZI. Is there any question, Mr. Gaynor, that you prepared memos, written memos, that were filed in the Pennington file, pertaining to McCord?

Mr. GAYNOR. I did, as I say, prepare about half a dozen through the period of the late summer and fall of 1972, during the period he was in prison, relating information Pennington would relay to us.

Mr. NEDZI. Do you know whether those memos were in the Pennington file at the time you left the Agency?

Mr. GAYNOR. As far as I knew they were, sir.

Mr. NEDZI. You are absolutely certain that you did prepare some written memoranda?

Mr. GAYNOR. Yes, sir.

Mr. NEDZI. Do you have any questions, Mr. Bray?

Mr. BRAY. No questions.

Mr. NEDZI. Mr. Hébert?

[No response.]

Mr. NEDZI. Mr. Slatinshek?

Mr. SLATINSHEK. This is somewhat of a digression, but pertinent to our discussion here. Your office retained Mr. Pennington as a source of information. Can you give us, without attempting to give us the details, an order of magnitude of the number of people you might have in this capacity who are on the payroll in one form or another?

Mr. GAYNOR. He was the only one.

Mr. SLATINSHEK. The only one?

Mr. GAYNOR. On my staff, yes.

Mr. SLATINSHEK. Since he was in a sense providing information to you, did you make the judgment as to whether he should be retained on the payroll, or did you have to go to higher authority to get approval of this?

Mr. GAYNOR. The question never came up of retaining him or not retaining him. Some years back when there was a considerable push toward economy I went to Mr. Osborn and offered to terminate him, if he thought it was necessary in the interest of economy. The amount of money involved was not great, but I felt if we had to do so we could dispense with his services. I thought we would lose something by it, but I was prepared to.

The question of retention never came up after that.

Mr. SLATINSHEK. Mr. Osborn was acutely aware of Pennington, in that he was the only source of information you had on a paid basis in your office?

Mr. GAYNOR. Yes.

Mr. SLATINSHEK. And you had had him for some years, and this payment was continuing?

Mr. GAYNOR. Yes, sir.

Mr. SLATINSHEK. Thank you.

Mr. NEDZI. Thank you very much for coming down on such short notice, Mr. Gaynor. We are sorry to inconvenience you.

Mr. GAYNOR. You are quite welcome.

Mr. NEDZI. The committee will recess until further call of the Chair.

[Whereupon, at 10:45 a.m., the subcommittee recessed, to reconvene at the call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Thursday, March 7, 1974.

The subcommittee met, pursuant to notice, at 9:55 a.m., in room 2337, Rayburn House Office Building, Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will please come to order. This morning we have Mr. Richard Helms as our witness for the purpose of exploring the problem of the destruction of tapes which were recorded at the Central Intelligence Agency.

Mr. Helms, will you rise and take the oath, please?

Do you solemnly swear the testimony you are about to give at this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

**TESTIMONY OF RICHARD HELMS, AMBASSADOR TO IRAN, FORMER
DIRECTOR OF CENTRAL INTELLIGENCE**

Mr. HELMS. I do, Mr. Chairman.

Mr. NEDZI. Mr. Helms, perhaps it would be easiest to have you relate to us the circumstances surrounding the whole incident and circumstances surrounding the system of taping and just what arrangements were made and how matters had been handled.

Mr. HELMS. Mr. Chairman, I believe before I start that the Agency has given you some written material which gives some details about dates of destruction and things of this kind. Since I haven't those precise dates clearly in my head, I don't want to be in the position here of saying something which conflicts with what is written in this memorandum and then have it said that I didn't remember right or I got my facts wrong or something of this kind, so I am simply going to avoid numbers of tapes and things of that kind if you don't mind. If you think it is important, I am sure we can make some adjustment of it.

When I became Deputy Director of Central Intelligence, which would have been in 1965, I guess, and moved into the Deputy Director's Office on the seventh floor, I found there were two installations. One was a system whereby, by pushing a button one could record a telephone conversation. It was an action on the part of the individual. There was nothing automatic about any of these systems ever. With a conscious will to get something going you had to push a button and a light would go on. That was on the telephone.

There was also a system for activating a recording mechanism in the office itself, and also in a kind of conference room adjacent to it which shows up in some places as the French room and it has various names, but in point of fact, it was simply a little conference room between the Deputy Director's Office and the Director's Office.

To activate this recording equipment, that took a physical action, too. There was never anything automatic about these things. There was nothing that was just going on, listening or being activated by noise or being activated accidentally or anything else. You actually have to push a button effectively to get either of these mechanisms started.

I found that from time to time these were simply an aid to my memory, to record something that I thought for the moment I would like to have absolutely straight so I could take proper action on it, and so forth, but it was not anything that I was very largely dependent on. One of the reasons was, for example that, making recordings in the room, by the time they got transcribed, usually 2 or 3 days had gone by and by that time I would have wanted to have done something in the way of action based on that meeting, so I used it comparatively little.

As far as the telephone was concerned, those tapes were immediately available. They could be transcribed if they wanted to and my procedure there was, if I recorded a conversation, I would then say to my Secretary, either erase the tape, "I don't need that conversation," or "Make me a quick transcription so I can take whatever actions there are," and then right after that those tapes were erased and used over again. They are very much like the tapes used on a dictaphone.

Mr. NEDZI. You said the system was used comparatively little. Could you quantify it in general terms?

Mr. HELMS. The only figure that sticks in my mind was, it seems to me over a year or even a longer period, as far as the two rooms were concerned, I can cite only slightly over 30 of these. I have forgotten the exact figure, but I think that is the largest number there ever was. I used it quite frankly when I had foreigners visiting the Agency where I would not have access to them again. Some didn't speak terribly good English; sometimes we had trouble understanding them. Sometimes there were others in the Agency with whom I should share things that were said. It was easier to do it this way rather than make a note.

Mr. BOB WILSON. Could you play the meetings back on a loudspeaker?

Mr. HELMS. No; you couldn't do that. Actually, Mr. Wilson, I am not a very good technician, so maybe my explanation here is not the most coherent in the world, but the recording system in the room was actually taped seven floors down in the building so there was no way to play that tape back and even if it was defective or the air-conditioning was on too loud or there was too much heat and so forth, we didn't know that until somebody tried to transcribe it.

That doesn't mean that I couldn't have sent somebody to the same place that the secretary was transcribing to listen to it, but I very seldom ever did.

There was one occasion I remember when the man's English was so bad we had an awful time reconstructing what he said and I actually asked an officer to listen to the tape and see if he could actually bring it back. That was the only occasion I can remember, and that was some years ago.

I had one secretary that sat in my outer office. I was not much of a note taker myself, except when I got a call from somebody important and then usually I took my own notes.

Once in a while I would use this recorder. I preferred this thing to having my secretary trying to take notes because there was only one out there and when another call came in she would have to go off and I never knew at the end whether she had a half of it or a quarter of it.

It was a lot easier to do it this way.

I don't know whether I have given you all the desirable technical details, but I want this committee, please, to understand that when I heard about tapes and destruction of Watergate-related tapes, the thing that immediately struck me was, who knows what was on those tapes except me or my secretary or maybe in some of these cases somebody who transcribed them. But who in the public can make an allegation that there were any tapes that were Watergate-related? And they couldn't. Honestly. As far as I know.

Mr. NEDZI. They could make the allegation?

Mr. HELMS. I beg your pardon. That is bad English. They could make the allegation, but I don't know on what basis they could have thought that they were telling the truth.

Mr. NEDZI. The problem is if the shoe was put on the other foot how can you prove they weren't Watergate-related?

Mr. HELMS. That is right, except to tell you they weren't.

Mr. BOB WILSON. I recall General Cushman saying that one of his conversations with Hunt or Liddy was transcribed.

Mr. NEDZI. We have that one.

Mr. HELMS. Mr. Wilson, you are absolutely correct. That tape was preserved. When these other tapes were being destroyed, I was asked about that. I said—

God, no, we just had a letter from Senator Mansfield on all these things. Keep that Cushman tape and keep anything else around here that has anything to do with Watergate or any of the people in the Watergate.

I was conscious of this and I had had the Mansfield letter. I am not going off the record, but Senator Mansfield has always treated me very well since I have been in public life and I would do nothing to offend Senator Mansfield.

Mr. NEDZI. Mr. Helms, can we determine where else these recorders were in the building besides your room and the outer office?

Mr. HELMS. The room recorders we are talking about now?

Mr. NEDZI. Yes.

Mr. HELMS. It was in my office. The room between my office and what used to be called the Director's Office—and I would like the record to show that I stayed in the Deputy Director's Office when I was Director and put the Deputy in the Director's Office. Let's not get confused, but there were three rooms right together like this [indicating] and when I became Director I stayed where I was sitting rather than going around and taking the other office. I put the Deputy Director back where John McCone used to sit as Director. Between the two offices was a room with a table and a television and the maps and so forth, which I kind of used to sit around the table more readily than to sit in my own office, which had no table in it.

That is what is variously referred to as the Conference Room or the French Room or something, and the next office over was the Director's Office, or Deputy Director's Office, that had recording equipment in it, and I believe in the Deputy Director Comptroller's Office there was a capacity to record through I am not sure. I think so.

Mr. NEDZI. Were there any ground rules for using these recorders?

Mr. HELMS. The only ground rule was that we each applied to ourselves. I didn't know how my Deputy used his, and I never discussed the matter with him. I had my own ground rules, which was that the transcripts either of telephone conversations or the room recording, I would never let go out of my office because I didn't want them wandering around, having copies made of them and so forth, because I felt they were my private papers just as my notes would have been, and I wouldn't want my notes floating around until I had a chance to tidy them up or clean them up or whatever the case might be.

From time to time I had officers in the Agency come to my office and read the memorandum, make notes if they needed to, what the for-eigner said or what the policy would be or something of that kind, and then go on back and make their own memorandums for the record.

Other times I made my own memorandums for the record.

Mr. NEDZI. Were there any telephone tapes preserved?

Mr. HELMS. No; those tapes were erased almost simultaneously. They were either erased immediately or transcription made and then erased and used over and over again.

As I said, I am not a technician. I don't even know the name of the system, but it seemed to operate very much like the normal dicta-
phone that you have in your office.

Mr. NEDZI. Was the system removed from the offices at any time during your administration?

Mr. HELMS. I had the system in the Deputy's Office moved when General Cushman transferred to General Walters because I thought at the time I didn't know General Walters very well; I wouldn't have any control over it. I didn't think it was necessary to him and I just had it taken out.

Mr. NEDZI. The system was subsequently reinstalled, I understand, in General Walters' office?

Mr. HELMS. I know nothing about that, Mr. Chairman.
The day I asked you—was that during my period there?

Mr. NEDZI. I don't know. Do you recall?

Mr. HOGAN. No; I don't recall.

Mr. NEDZI. I wondered why the system was reinstalled.

Mr. HELMS. I am not familiar with that.

Mr. NEDZI. Could you tell us about the events leading up to the actual destruction?

Mr. HELMS. Yes. There are a couple of things here that don't relate but they took place in the sort of same general period of time. One was the letter from Senator Mansfield. I believe it is dated the 17th or 18th of January 1973, and then Dr. Schlesinger was confirmed by the Senate around in this same time period. I think it was the 22d, 23d of January. So it was clear to me that from that time on that Dr. Schlesinger wanted to come out and get going and wanted to get him briefed. He called me and said he wanted to come out.

I realized instead of having until what I thought was going to be March before he took over as Director—because there had been a considerable amount of talk between me and the White House about my doing this on my 60th birthday, which would have been the 30th of March. It was quite clear this was going to go more rapidly now,

so I realized I was going to have to get on my horse and start tidying up my affairs, and there were affairs that went back some 25 years in the Agency.

One of the things that my secretary came to me about was, she said, "What is to be done with these tapes?"

I said, "Let's get rid of them."

We have this letter from Senator Mansfield, but most of this stuff you and I know what is in it, and I think there was some kind of a list of various visitors and so forth that we went through to be sure there was nothing in there that had to do with these matters, and they were destroyed. I authorized their destruction. Let's put it that way. She came to me and I said, "Yes; have them destroyed."

As a matter of fact, up to today I don't know how they destroy these things, but there are technicians who are available to tell you about that.

The only thing to be destroyed were these room recordings, not the telephone conversations.

Mr. NEDZI. Was there actually a discussion as to whether any of these were Watergate-related or not?

Mr. HELMS. Yes; I am relatively certain that I spoke to her about that because in connection with this Cushman tape this issue came up again, you see.

So that it was on our minds. Now, the exact nature of the conversation I don't recall but, Mr. Chairman, believe me, I was trying to act responsibly and I had nothing to hide. There was nothing there that I was aware of.

I didn't have any feeling of guilt or anything about this.

Mr. NEDZI. Was there, to your knowledge, a complete log of these tapes?

Mr. HELMS. Well, there were notations about the tapes and they were numbered and there was some identifying data with them.

I believe that is in the material the Agency gave you. I never even went in the room downstairs where these tapes were kept so I don't even know what the boxes looked like.

Mr. NEDZI. Did you examine the log?

Mr. HELMS. There was some kind of a record, as I recall it, of various recordings. You know, "Joe Blow and the Director" and so and so, and so and so.

I don't want to go beyond my distinct memory. I don't know whether I sat down and went through every one of those or not. I mean, you know, line by line. But the issue in the Mansfield letter was, "Watergate matters having to do with the break-in, and more specific language about campaign funds" and so forth—I am sure you have a copy of the letter or, if you don't, it is in your packet here.

I, frankly couldn't recall ever having had anybody in my office who was even discussing these matters with me.

So this isn't something you know where you would be looking for that needle in a haystack, particularly. I just hadn't had any conversations of this kind in my office.

Now, during 1972 there was a great deal of working back and forth about giving evidence to the FBI, the Justice Department and things of this kind, but all of that material was handled by me with my associates right there and I never recorded those things at all.

They just came in and sat down; we would talk about it, do this, do that, do the other thing. There was no reason to.

Mr. NEDZI. My recollection of reviewing the logs is there were a couple of blanks in the log. There were question marks as to who actually was recorded.

Mr. HELMS. That doesn't surprise me because I intentionally on a couple of occasions told them to put down "Mr. X" or something equivalent.

Mr. NEDZI. Why?

Mr. HELMS. Well, the answer quite simply was those "X's" as I recall it, normally referred to [deleted]. There was a strong feeling on the part of the Agency that handled [deleted] matters that people just shouldn't know he was there to the extent possible, so the person who was doing the recording, the transcribing even, shouldn't know it was specifically so and so.

I think I may have done it once on [deleted.] I am not sure. It was that kind of individual. These were not Americans I was calling "Mr. X."

Mr. NEDZI. Was the President ever recorded on a telephone conversation?

Mr. HELMS. President Nixon?

Mr. NEDZI. Yes.

Mr. HELMS. Not to the best of my knowledge. He never called me very much. I had been obviously thinking about this and wondering about it in my mind, so I don't have a complete record in my head, but most of the calls to the White House came from Kissinger, or some one of his aides I got a couple of calls at my apartment through the years about matters affecting Cambodia, Vietnam and things of this kind.

Mr. NEDZI. There is no recording device on your phone in your apartment?

Mr. HELMS. No.

May I say, because I want to volunteer some things, I don't want to be here in a position where everything is dragged out of me. I never discussed Watergate or Watergate-related matters with President Nixon. At least to the best my memory serves me, and I think I would have remembered.

It has been alleged, I know, I think it has been alleged, at least I have heard it has been alleged he did speak to me about it, but I have no recollection of it.

Mr. NEDZI. Did he ever call you at the Agency?

Mr. HELMS. Yes. I remember one call. He called me one afternoon to say that [deleted]—I don't even remember when this conversation was, but I remember it because it stuck in my mind for a particular reason.

He said "[deleted] has been with me this afternoon and when we finished our session he came over and whispered in my ear in his broken English and I am not sure I thoroughly understood him, but what he seemed to be saying was he was going to see you this afternoon later on and was this all right and I wanted to call you up and tell you it was all right, certainly, go ahead and see him," and that was the end of the conversation.

There may have been others, but I don't recall them. I can honestly tell you there were very few—in 5 years there were very few Presidential telephone calls.

Mr. NEDZI. Would there have been any reason to record those conversations?

Mr. HELMS. No, I don't think so. I don't recall any—you know, they were all of this caliber—there was nothing—what I remember in my apartment had to do with the Cambodian campaign. As I say, at the apartment there was no recording equipment of any kind.

Mr. BOB WILSON. Maybe you were being recorded.

Mr. HELMS. I may have been recorded, but I wasn't doing it.

Mr. NEDZI. I want to be fair with you, Mr. Helms. What raises the question is the fact that a memorandum, or executive directive, or whatever you want to call it, was issued at the agency in which the phrase was used that the President may have been recorded, or words to that effect.

Mr. HELMS. I am sorry, sir, I am not tracking with you. There was an executive order?

Mr. NEDZI. A directive from the Director to employees; an information bulletin or memorandum—

Mr. HELMS. That I wrote?

Mr. NEDZI. No, your successor wrote. This is comparatively recent. In January, I guess, in which—well, it is subsequent to the revelation that certain tapes were destroyed.

Mr. HELMS. Yes.

Mr. NEDZI. In which the phrase that the President's conversations may have been recorded. It is not an allegation that they were, but then the statement was they may have been.

So my purpose in broaching the subject with you is to determine whether you have any recollection of this ever having been done.

Mr. HELMS. Not to my recollection. I do not recall at one time having a very active conversation about President Johnson about a whole lot of things he wanted me to do about Vietnam and my finally in desperation pushing this button in order to get straight what he was trying to tell me to do.

I do recall that, but I don't recall it with President Nixon.

Mr. BOB WILSON. My question goes back to the point when you were asked about the tapes being destroyed. What happens to the tapes of the telephone conversations? Are they automatically erased?

Mr. HELMS. They are erased almost as fast—

Mr. BOB WILSON. Then what happens to the transcripts? Did you destroy the transcript?

Mr. HELMS. I used to tear them up. The transcript itself, I used either as a reminder to myself to call "X," "Y," or "Z" to do something, or I would write a memorandum to them and say, "On such and such a date I want this done," and so forth, and sometimes they would be kept for a short time but generally they were filed by my secretary or torn up, one or the other, depending on what seemed to be their utility.

In other words, may I put this in the context that this was like notes that you would make in your handwriting? Some you would want to keep for a while because they had a telephone number on it, or a particularly relevant thing. Others you would not care about and would tear up and throw away.

Mr. NEDZI. You stated you were prepared to volunteer—

Mr. HELMS. I wanted to volunteer this clarification about the President and me and Watergate that I never discussed it with him either orally, on the telephone, in his office, or anyplace else.

Mr. BOB WILSON. Mr. Chairman, I am not clear. I haven't seen any other material we have on the matter, but in this letter from Senator Mansfield, did he ask you specifically if you had any information relative to the Watergate or the CIA involvement with the White House?

Mr. HELMS. Do you have the letter?

Mr. HOGAN. I have it right here with me.

Mr. BOB WILSON. Was that the intent of the letter?

Mr. HELMS. I believe, sir—I may be wrong about this—but my recollection is he wrote this letter to every agency. It simply said, "Dear Mr. Helms, Dear Mr. Director, or Dear Mr. Secretary," or something, but it went to a series of agencies directing them not to destroy any material.

Mr. BOB WILSON. At this point you reviewed the tapes you had to see if they were Watergate-related?

Mr. HELMS. The Mansfield memorandum had nothing to do with my wanting to get rid of the tapes. The thing that caused me to do that was because I was moving my office and I started getting rid of things. After 25 years you accumulate an extraordinary lot of junk.

Mr. BOB WILSON. It was just something you would have done whether or not you heard from Senator Mansfield?

Mr. HELMS. That is right.

Mr. NEDZI. Mr. Helms, is there anything else we should know about?

Mr. HELMS. Well, I don't know, sir. If you have any papers or any questions you would like to ask me—I am not only here, I am here voluntarily because I feel this committee has stood up for the Agency and for me in a way that has been politically very courageous and if I can be of any help, I will be of help. I am here totally voluntarily.

Mr. BOB WILSON. I wonder, Mr. Chairman, if there might be a way of getting additional voluntary information if he can go through some of the documents you have? Would that be proper?

There may be some clear misstatements or some such thing that ought to be straightened out in the documents. I don't know what documents you have. I haven't seen them either.

Mr. NEDZI. We have got tons of documents and I am afraid Mr. Helms would have to extend his stay in the country if he examined everything we have.

Mr. HELMS. May I say, I have always been advised never to volunteer things, that if you protest too much Congressmen and Senators think you are protesting too much and so forth, but may I just—at whatever risk this entails—say there have been a lot of issues, it seems to me—and this is particularly true on the Senate side—about my conduct and my having been involved in a conspiracy with Howard Hunt—a series of things like this.

That one of the reasons I conspired with Howard Hunt was that I wanted to get back at the plumbers. That is one of the things that have been said.

(a) I didn't know of the existence of the plumbers unit.

(b) May I point out that the plumbers unit was no threat to me. If it was a threat to anybody, it was to the FBI, not to the CIA. I

couldn't have cared whether they had a plumbers unit or not. So I couldn't have had any motive to want to do this, unless I had slipped my cork, and I don't think I have, or did.

As far as the other theory which is expounded—I mean the story is being leaked around town, for example, that I lent Howard Hunt \$30,000. Now, gentlemen, I have been on a Government salary since 1946. The amount of stock I have is so small it is what they call de minimi. I couldn't have lent him \$30,000.

Come to find out, and having asked what gave rise to this, it might have been any one of two things. His daughter was very badly damaged in an accident, or two accidents, or something, and the accidents happened very strangely. She developed psychiatric difficulties. She went to Shepherd Pratt. You know, the institution in Baltimore. This guy was in very serious financial straits. In an organization like CIA, particularly on the clandestine side of it, anybody who gets in debt constitutes a vulnerability. I mean for a recruitment from the other side, if nothing else. All drunks are a threat. Drug people are a threat. Homosexuals are a threat. Anybody who has a really distinctive blackmail possibility.

So the logical thing to do was to make available those institutions in the Central Intelligence Agency to help out employees who unintentionally get in some kind of financial difficulty and one of the ways of doing this is something we call the Public Service Aid Society, which contains a fund of money administered by some directors into which people give voluntarily to build up a fund so that people in a jam can get this stuff without paying interest and so forth. He got one of those loans. When he finally got the accident settled, as I understand—I mean he got some settlement—he paid the loan back. In other words, he doesn't owe that Public Service Aid Society money any more.

The \$30,000 figure—and I have heard both 20 and 30—could relate to the fact that when he was on an undercover assignment overseas at one time, in Spain to be precise, our system of handling that was to donate the money for the man's travel allowances and so forth to a personal bank account of his so he could draw on it. So that was Agency money in the performance of his mission. It had nothing to do with a loan from me.

You know, as one piles up these allegations and so forth, one finds there may be a slight explanation for how they got started in the first place, but there is no connivance and conspiracy.

Sure I knew this man. I understand it is being asserted in Senator Baker's committee—and I suppose I will hear about this tomorrow—that I knew him a lot better than I admit. What is wrong with knowing someone better than I have admitted? I have admitted I knew him. Now, how well is "how well?" He is like hundreds of others in 25 years that I knew.

I was never in his house for dinner. He was never in my house for dinner. I don't even know how many children he has to this day. I never met his wife as I can recall, even though she worked for the Agency, I believe, way back when.

I am not trying to dirty up Howard Hunt. I am not trying to clean up Helms. I am saying these facts are not as alleged and I had no motive for doing any of these things.

Mr. BRAY. Washington is the greatest rumor factory in the world anyway.

Mr. NEDZI. Does the name Lee Pennington mean anything to you?

Mr. HELMS. Sir, it didn't until 2 days ago and when I was out at the Agency I was asked, "Do you know someone named Pennington?"

I said "No, who is Lee Pennington?"

He said, "Are you sure?"

I said, "No, I don't know a Pennington," getting more irritated. Maybe I did know one at some time in my life. They said there is some problem involving Pennington and I said, "What is it?" and then we got into something interesting which was that because the Agency signature is in on all of Senator Baker's hearings or Mr. Thompson's hearings or whoever they are, they have undertaken not to repeat what the witnesses have said and apparently something about Mr. Pennington was up before that committee, but I don't know what it is with Mr. Pennington and I don't even know who he is.

I don't want to be dishonest in any sense and I don't want you to think I am holding out. It had something to do with our Office of Security, but I don't know what it was.

Mr. NEDZI. You were never aware of his being an informant or a source for the Office of Security?

Mr. HELMS. Not by that name. You know, somebody might have used some other way to describe him but I don't know any Pennington.

Mr. NEDZI. Do you know [deleted].

Mr. HELMS. We used to have a man named [deleted] in the Agency who was of Czech origin, but his name wasn't [deleted].

Mr. NEDZI. Was he in the Office of Security?

Mr. HELMS. No, he wasn't. He was in another part of the Agency.

Mr. NEDZI. You were never made aware of Lee Pennington having anything to do with McCord or anybody in the Agency?

Mr. HELMS. Look, Mr. Chairman, if you want to tell me what this thing is all about, I am delighted, but I don't want to force them out where they were breaking their undertakings with Senator Baker and so forth and since I didn't know the man I didn't think it made any difference, but if I can be helpful, if you want to identify with me what the problem is, then I can be more specific.

Mr. NEDZI. I think the fact that you don't know anything about it is sufficient.

I think we should have your comment on one memorandum here, Mr. Helms, that was raised some time ago. We have gone through a series of these allegations and innuendoes.

[Document shown to witness.]

Mr. HELMS. Yes. I can tell by looking at the paper because I have looked at this so much. This is the memorandum referred to by Mr. Archibald Cox before the Senate Judiciary Committee when he said that a Watergate witness had written a memorandum which cut across—I don't know what his exact words were, but testimony before various committees and so on. This is, I believe, the memorandum to which he was referring because subsequently the Special Prosecutor asked me to come back from Teheran, sit down with him and then go before the grand jury on this memorandum and I have testified before the grand jury on this memorandum, what its interpretation was, how it came to be written and so forth.

Mr. NEDZI. Would you give us the benefit of that history?

Mr. HELMS. Surely.

Let's see where the best place to start is.

The 23rd of June is the now famous meeting between Haldeman, Ehrlichman, Walters and Helms at the White House and I believe that was a Friday. Then there were the meetings on the 28th—let me be sure about the dates. Anyway, Monday, Tuesday, and Wednesday of the following week, which I think were the 26th, 27th, and 28th of June. Would that be right? That is not important. But in any event, those were the three meetings Dean had with General Walters.

As it says here, in the first sentence, "Acting Director Gray of the FBI phoned me this morning to cancel our meeting scheduled for 2:30 this afternoon."

Now, I also want to note that that was Wednesday. I was due on Saturday morning to leave for a 2-week trip to [deleted]. So I was going to be out of town for a period of time here. So this memorandum came to be written because I wanted to get down two or three items for General Walters' benefit, even though he and I had been talking a lot orally about these various matters.

Now, what was bothering me at the time quite frankly was this: Mr. Gray was asking me about whether we had any relationships with a man named Ogarrio, a Mexican. Did we know anything about a man named Dahlberg, but never was there any explanation from him as to why he wanted to know these things.

In other words, he gave me no intimations. He said, "You have your relationships with these two individuals."

I dutifully reported back to him as soon as I found out we didn't have any relations with those individuals, but this was beginning to make me uneasy because you can ask about things, you know, indefinitely, and all kinds of names and so forth—after all, the FBI, you know, has a large station in Mexico City and when something like this Mexican thing, Ogarrio, comes up, who else do they want to know about and why?

Another point. Here was Gray canceling the first time I had been able to get him to agree to sit down with me and try to sort out what this was all about and if we could be helpful, we wanted to be helpful, but he was not giving me any indication as to why he wanted to know these things.

He indicated also, I believe in the conversation, as I recall it, that he wasn't going to be able to meet with me any time that week. In other words, he wouldn't be able to meet with me Thursday or Friday either.

The memorandum was an effort to put down the fact that he had canceled the meeting and the other points in here—I don't think you are interested in me going over this like a legal document—

Mr. NEDZI. The final paragraph there I think is the one that caused concern.

Mr. HELMS. The sideline part of it here. It is an addition.

So, one other point I want to make: I have a situation in which my deputy, whom I am leaving in charge, has been with the agency about 6 weeks at this point and is pretty new. We have a Director of the FBI who is brand new also—I forget how long he'd been in, but it hadn't been an awful lot longer.

My preoccupation here was to see to it that General Walters clearly understood from me that he was to be helpful with the FBI but that

he wasn't to be a patsy for some kind of a fishing expedition and so forth.

Now, I want to interpolate a second here, Mr. Chairman. The question comes up, when the President talked about getting into CIA operations in Mexico—it was made in one of his statements, I have forgotten which one it was—people keep asking me, what did he have in mind?

The answer is, I don't know what he had in mind. I don't know to this day what he had in mind.

All I assumed was, that since he knew we operated in Mexico, we must have some operations in Mexico and this must have been what he was referring to, but I don't know any more specifically than that.

Now, when I was assuring Mr. Gray that these names and anything else that he had so far raised were not getting into our operations in Mexico, I was basing it on the fact that we had never heard of this man Ogarrio; we never heard anything about Mr. Dahlberg. As a matter of fact, nothing that came up indicated they were going to get into our business unless—and I must say that over the years there has been a lot of rivalry between the two organizations—he, as a new man, was going to try to find out a lot more about what we did in Mexico that he didn't know before.

You must remember I never heard about any laundered money as of this point in time. This is something that came up later as far as I was concerned. Nobody mentioned any dough to me.

There was an allegation, I believe, that one of the people said to Walters something about—I don't remember who it was, whether it was Gray or Dean or what—but as of the 28th of June I have no recollection of having heard of any illegalities, criminal act or anything involving money, although I might have heard about money.

So we get down to, in short, in such a meeting, it is up to the FBI to lay some cards on the table. Otherwise, we are unable to be of help.

Now, I wrote none of these memoranda for publication. An eyes only memorandum for my deputy, for his guidance. I am not a lawyer, so maybe I was a little too abrupt, and a little too curt, and a little too a lot of things, but I want to say in parenthesis here, if I ever had any intention of getting rid of documents having to do with Watergate, there are a lot of things I have been explaining in recent months I would have gotten rid of in a hurry and this is one of them.

I wanted, by that sentence, to indicate to Walters that unless the Director of a sister agency of the United States Government was going to be a bit more forthcoming as to why he was asking a lot of questions, then it seemed to me he was on a fishing expedition and I had no obligation to respond and that is what the language means. We are not going to be of help. And, what do they want to know all this for?

In addition, we still adhere to the request that they confine themselves to the personnel already arrested or directly under suspicion; that they desist from expanding this investigation into other areas which may well eventually run afoul of our operations.

In my layman's language, the first thing was, we want to help with the investigation on the personalities arrested; we want to go after, and help, with any person under suspicion of any kind, but I want

no fishing expedition and I want Walters to stand up to this and be sure Gray stands by the delimitation agreement between the two organizations.

Mr. HOGAN. Just for the record, I want to identify that memorandum.

Mr. HELMS. It is dated June 28, 1972. It is stamped eyes only. It is a memorandum for the Department Director, a subject, Watergate affair, and signed by Richard Helms as Director. Not signed, initialed.

Mr. NEDZI. Mr. Helms, we want to thank you for your cooperation, your customary cooperation.

The committee will stand in recess until further call of the Chair.

[Whereupon, at 10:40 a.m., the subcommittee adjourned subject to the call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Monday, June 17, 1974.

The subcommittee met, pursuant to notice, at 10:08 a.m. in room 2337, Rayburn House Office Building, Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order.

The Chair will observe that notice of this meeting, as required under the House rules, was not published, upon the desire of the Special Prosecutor's office and Judge Gesell to avoid publicity in the interest of pending trials in the matter.

I would like the record to show the concurrence of the subcommittee members on that matter. Is there any objection?

Mr. BRAY. No objection.

Mr. NEDZI. The Chair hears none. The quorum present has unanimously concurred.

At this time the Chair would like to put to vote the question of placing the witness under oath in rendering his testimony.

Would you call the roll?

Mr. HOGAN. Mr. Nedzi.

Mr. NEDZI. Aye.

Mr. HOGAN. Mr. Bray.

Mr. BRAY. Aye.

Mr. HOGAN. Mr. Arends.

Mr. ARENDS. Aye.

Mr. HOGAN. Mr. Price.

Mr. MELVIN PRICE. Aye.

Mr. HOGAN. Mr. Fisher.

Mr. FISHER. Aye.

Mr. NEDZI. Because of the nature of the testimony, the Chair would like to rule at this time that the subcommittee meet in executive session.

Mr. MELVIN PRICE. I so move.

Mr. HOGAN. Mr. Nedzi.

Mr. NEDZI. Aye.

Mr. HOGAN. Mr. Bray.

Mr. BRAY. Aye.

Mr. HOGAN. Mr. Arends.

Mr. ARENDS. Aye.

Mr. HOGAN. Mr. Price.

Mr. MELVIN PRICE. Aye.

Mr. HOGAN. Mr. Fisher.

Mr. FISHER. Aye.

[Whereupon the subcommittee proceeded in executive session.]

Mr. NEDZI. The subcommittee is now in executive session.

Mr. Colson, we want to express our appreciation to you for your cooperation in coming down. As you know, the primary purpose of

this meeting is to explore allegations which members of the subcommittee have observed, relating to the CIA deliberately planting stories by you, with, as you put it, several major news organizations, accusing you of involvement in criminal activities.

We would like to hear your specific charges in that regard.

**STATEMENT OF KENNETH L. ADAMS, COUNSEL FOR
CHARLES W. COLSON**

Mr. ADAMS. Mr. Chairman, before Mr. Colson begins, I would like to mention a few things. My name is Kenneth L. Adams of the law firm of Dickstein, Shapiro & Morin, counsel, Mr. Colson's attorney.

First, I regret the subcommittee was unable to comply with our request to postpone Mr. Colson's appearance until after Friday, June 21, which is the date of his sentencing before Judge Gesell. Both the Judge and the Special Prosecutor have expressed the desire Mr. Colson not testify here and elsewhere until after sentencing, and until after sequestered in the Fielding break-in case has been selected.

In addition, Mr. Colson, and we as attorneys, have been spending virtually all of our time since his plea on June 3d working on preparing material that was requested by the probation officer in conjunction with the sentencing that will take place later this week. That process was largely completed last Thursday—Thursday morning.

We spent all of Thursday and Friday in informal witness interviews with the Watergate Special Prosecutor and with the staff of the House Judiciary Committee, the Impeachment Subcommittee. As a result we only had a few hours yesterday afternoon and this morning to prepare for this hearing.

So if there are places where Mr. Colson's testimony or response to questions is not as full as we and you would like, I hope you understand the time pressures we have been under.

Second, I did advise Mr. Hogan last week that Mr. Colson has not had access to the report prepared by Senator Baker, following his investigation of CIA involvement in some of the matters under inquiry today. I am advised that the subcommittee does have a copy of that report, and I had requested Mr. Colson and I be given an opportunity to review it prior to any questioning today, and I would like a copy of my letter to Mr. Hogan, dated June 13, 1974, to be included in the record of today's proceeding.

Mr. NEDZI. Without objection, the letter will be included at this point.

[The following information was received for the record:]

DICKSTEIN, SHAPIRO & MORIN,
Washington, D.C., June 13, 1974.

WILLIAM HOGAN, Esquire,
Counsel, Special Subcommittee on Intelligence, House Armed Services Committee, Rayburn House Office Building, Washington, D.C.

DEAR MR. HOGAN: This will confirm our prior discussion relative to the scheduled appearance of my client, Charles W. Colson, before the Special Subcommittee on Intelligence on June 17, 1974. As I indicated to you, Mr. Colson is prepared to assist the Subcommittee in pursuing its oversight function. I have been advised that the Subcommittee possesses a copy of the Report prepared by Senator Howard Baker for the Senate Select Committee on Presidential Campaign Activities concerning C.I.A. involvement in certain domestic activities, including the Watergate and Fielding break-ins.

I am sure the Subcommittee will agree that as a matter of fundamental fairness, Mr. Colson should be given an opportunity to review information presently in the Subcommittee's possession bearing directly on the subjects about which he will be questioned. With that in mind, I have reason to believe that the Baker Report deals with several matters which will undoubtedly arise in the course of Mr. Colson's testimony. I should, therefore, like to make arrangements at your earliest convenience for Mr. Colson and myself to inspect a copy of that Report and any other relevant information which would assist Mr. Colson in making a meaningful presentation to the Subcommittee.

Very truly yours,

KENNETH L. ADAMS.

Mr. FISHER. Mr. Chairman, I am not very familiar with the background, what brought this hearing on at this particular time. But is there any good, urgent or pressing or proper reason why it could not be postponed a week in view of the situation? Maybe there would be no leaks. I think this committee is pretty well leakproof, but we have had so much fear of these leaks in recent months, it becomes more in the ordinary rather than the exception, it seems.

Mr. ARENDS. Will the gentleman yield?

Mr. FISHER. Yes.

Mr. ARENDS. I wonder if we might have the request read to us, asking for a delay, so we would know more detail about it?

Mr. NEDZI. Mr. Arends, if I may first swear the witness in.

Mr. ARENDS. Sure.

Mr. NEDZI. Then we will proceed.

[Witness sworn.]

Mr. ADAMS. Congressman Arends, if I could respond to your request. That was not done in writing. There were several exchanges of phone calls between myself and Mr. Hogan and Mr. Shapiro and Mr. Hogan, and I believe Mr. Nedzi and Mr. Merrill of the Special Prosecutor's staff. That was not done in writing because of the time press.

Originally the request was we appear last Thursday, and Mr. Merrill's request to the chairman, because they wanted Mr. Colson in their office last Thursday, the chairman agreed to put it over until Monday. That was how today's date came to pass, but it was not in writing.

Mr. NEDZI. Members of the subcommittee, I just would like to say the purpose of the hearing is to explore the background of the text of Mr. Colson's statement which appeared in the New York Times on June 4.

Mr. BRAY. Who was that statement given to?

Mr. NEDZI. It was given to all the media, I assume.

Mr. BRAY. It is a newspaper, not taken from any hearing?

Mr. NEDZI. No. It is a quote from Mr. Colson. It is his statement. The Chair felt that as soon as possible they should clarify these matters, because in his judgment these are serious charges against the agency which have been made. One way or the other, these charges should be clarified, and since it is a formal statement, it appeared to the Chair that extensive review or preparation is not required to explain the statement, which is clear on its face.

Here is an excerpt of it. "In fact there are records showing that the CIA planted stories with several major news organizations accusing me of involvement in criminal activity."

It is the Chair's judgment that that is wrong, if in fact the CIA has done this. What I think we should determine is whether there is substance to the charge or not. If there is, then we will get after the agency. If not, then we should know it.

Mr. ADAMS. Mr. Chairman, before I mention the other thing I had to say, the documents which are referred to in that statement were provided to Judge Gesell by the prosecutor under seal, in camera, during pretrial discovery and pretrial motions in the Ehrlichman case. I furnished Mr. Hogan with the portions of the public transcript which reflect those documents. In addition, there was a subpoena we issued for the documents, because we did not have them. That subpoena was withdrawn following Mr. Colson's plea, in the event that would assist you, knowing the basis for that statement.

Let me just mention two other things I did want to say before we go any further. Because of the present timing of the hearing, should you decide to go ahead today, coming as it does prior to Mr. Colson's sentencing and while he is still under indictment, because the two indictments have not been dismissed and will not be dismissed until after sentencing, there may be questions as to which I will find it necessary to instruct my client to refuse to respond. I mentioned that to Mr. Hogan. I just wanted that understood.

Finally, the subcommittee should be aware some of Mr. Colson's knowledge concerning matters which he may be asked to testify about today derives from documents which were furnished to us by the Watergate Special Prosecutor in the course of pretrial discovery in the Fielding breaking case, *United States v. Ehrlichman et al.* prior to the plea. I have been advised we are not at liberty to disclose that information or documents, but I am sure Mr. Jaworski would respond to a direct request from the committee at least for an inventory of any relevant documents in their possession concerning the CIA in these matters, which would then enable the subcommittee to make a direct request of the CIA for those documents.

Mr. FISHER. Mr. Chairman, I fully agree with the Chairman this is a proper thing and should be investigated. It is a question of timing that I had in mind only.

Mr. NEDZI. I understand.

Mr. FISHER. Whether now or after the sentencing. I just don't know. You know more about that.

Mr. NEDZI. Let the Chair respond he has been in touch with the prosecutor's office, and while there was a suggestion made that there is a problem with publicity of this kind of hearing, I assured him that it was not the intent of broadcasting in any way what transpired in this hearing, and it certainly is the Chair's intent and trust that the members are going to cooperate, as I am sure they will, in seeing to it that nothing leaks from the subcommittee. I think frankly there is no problem in that regard.

With that assurance to the prosecutor's office, they posed no objection to going ahead with the hearing.

Mr. BRAY. Mr. Chairman, I agree with the chairman, there is no question of danger of a leak from this committee, but I have strong questions about the statements here as to mysterious documents, and involving a governmental agency. Apparently those documents are attempted to being kept from this committee, and I would think if I was a judge making sentence, I would want to know the truthful-

ness of this matter that was voluntarily given to the New York Times—that is, the New York Times, given to that paper and other media.

I do think it is rather serious. I would think we ought to question very strongly whether they can keep information apparently adversely affecting an agency, which is the CIA, keeping it from this committee. It is one of the few committees—perhaps I shouldn't say this—that has never been quality of a leak of any kind. If I was the judge, I would want to know the truthfulness of voluntary statements.

Mr. ADAMS. Congressman Bray, Judge Gesell has seen these documents. He asked that they be produced by the prosecutors when these—when the charges were made in our pretrial motions concerning adverse pretrial publicity. They were furnished to Judge Gesell in camera by the prosecutor. He did review them. He expressed great concern about what he read in those documents, and I believe, as I said I gave Mr. Hogan a copy of the public portion of the transcript in which Judge Gesell expressed his views in that regard, and said he could not condone what those documents reflected had been done.

I don't know whether this subcommittee has made a direct request either of Judge Gesell or the prosecutors for the documents.

[The following information was received for the record:]

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

Criminal No. 74-116

UNITED STATES OF AMERICA,

v.

JOHN D. EHRLICHMAN, CHARLES W. COLSON, G. GORDON LIDDY, BERNARD L. BARKER, EUGENIO R. MARTINEZ, DEFENDANTS.

Washington, D.C., May 23, 1974.

The above-entitled cause came on for further Hearing on Motions before the HONORABLE GERHARD A. GESELL, United States District Judge, at 9:35 a.m.

Appearances: William H. Merrill, Associate Special Prosecutor; Charles R. Breyer; Philip J. Bakes; David Kaye; Robert Palmer, Assistant Special Prosecutors; Philip Heymann, Consultant to Special Prosecutor, Counsel for Government.

Mr. SHAPIRO. Yes, Your Honor. Mr. Merrill has some papers which you have ordered him to bring to Court this morning.

The COURT. Which I asked him to bring.

Mr. SHAPIRO. Certainly.

Mr. MERRILL. Yes, sir. I think Mr. Shapiro may have misspoken yesterday, if he gave the impression that there was some file in our office from the CIA with respect to CIA publicity. There is no such file in our possession.

After we left the Court yesterday, Mr. Shapiro advised us of three specific documents that he was referring to. We received a mass of material from the CIA in this entire investigation; and I did manage to look where I thought things might be among that mass and did find two of the documents that he referred to. I did not find the third one.

I checked with the CIA to see if we had received it and I may have overlooked it; and was advised that they didn't believe this third one had been sent to us; and I am not sure they even knew where to put their fingers on it right then, last night.

As with everything that we have received from the CIA, they are marked, Secret. I have not given copies to Mr. Shapiro, but I would be glad to make the documents available to you and to some extent identify them for you.

The COURT. What do you mean, they are Secret?

Mr. MERRILL. Everything that we have received from the CIA is stamped, Secret.

The COURT. I know, but that doesn't mean that is secret.

Mr. MERRILL. I am just saying that is the condition in which we received them, Your Honor; and it was for that reason—

The COURT. If you will hand them up, I will look at them. If they are germane to this inquiry, I will release them from any Secret classification.

Mr. MERRILL. All right.

What I am handing you, Your Honor, is two sets of documents. The first set, which contains two documents, paper-clipped together, consists of some handwritten notes underneath, and then a typed reproduction of those handwritten notes. The typed portion is, as I understand, sanitized in the sense that near the end of the handwritten notes there appear to be some references to agents' names. Those names have been omitted. Otherwise, it is my understanding that the type-written document is identical with the handwritten document.

The second set is simply another report, dated another date.

The COURT. Here is the second document?

Mr. MERRILL. Yes.

The COURT. Then perhaps I should take a moment and read these two documents.

Mr. SHAPIRO. May I suggest you read the second one first, your Honor?

The COURT. Have you seen them?

Mr. SHAPIRO. No, Your Honor, but I have a pretty good idea what is in which.

The COURT. Well, I will read the March 1 document first.

Mr. SHAPIRO. All right, sir.

The COURT. Do you have an article in Newsweek of March 5, captioned, "Whispers About Colson"?

Mr. SHAPIRO. Right here, Your Honor.

The COURT. All right, would you hand it up.

[Whereupon, the document was submitted to the Court.]

The COURT. I have read each of these documents which were largely filled with total irrelevancies. The only matter really pertinent to this case that I can see in the documents is the indication that there may have directly been CIA responsibility for the article of March 5, '73 in Newsweek, captioned, "Whispers About Colson."

I will not disclose the documents. In the argument, Mr. Shapiro, you may assume that the article, "Whispers About Colson," is attributable to the CIA.

Mr. SHAPIRO. Your Honor, may I inquire whether or not there is any suggestion in the documents that any other newspaper articles of a generalized nature might have been attributed to the same source?

The COURT. There is a suggestion that there was contact with other newspaper men, not particularly in relation to Mr. Colson.

The documents, of course, will be sealed, so that my determination with respect to that can be later judged. But at this stage, I think that is the best thing to do. The bulk of both of these documents is full of the typical irrelevancy that one would expect in documents of an agency like the CIA.

Mr. SHAPIRO. Well, the only thing that I would like to direct the Court's attention to is this possibility: In going through, the other night, the various aspects of testimony that was turned over to us, there was a tremendous amount of testimony, which may or may not be sought to be introduced during the course of the trial, dealing with the so-called Chappaquidick incident in which Mr. Hunt either was sent or asked to go to see someone in Rhode Island.

The COURT. Now, Mr. Shapiro, there isn't a possibility, is there, that Chappaquidick has anything to do with this case?

Mr. SHAPIRO. I would hope that that would be your ruling, Your Honor.

The COURT. I have no indication of that.

Is there any Chappaquidick material in the exhibits the Government says it is going to introduce in evidence? Mr. Merrill?

IN THE UNITED STATES DISTRICT COURT FOR DISTRICT OF COLUMBIA

C.C. 74-116

UNITED STATES OF AMERICA,

v.

JOHN D. EHRLICHMAN ET AL.

Washington, D.C., May 24, 1974.

The above-entitled matter came on for hearing before the Honorable Gerhard A. Gesell, United States Judge, at 11:30 a.m.

Appearances:

On behalf of the Special Prosecutor: William H. Merrill Esq., Philip Makes Esq., Philip Heymann Esq.

On behalf of the Defendants: William S. Frates Esq., Andrew Hall Esq., Spencer H. Boyer Esq., Henry H. Jones Esq. For Defendant Ehrlichman, * * * defendants, but the court finds the survey wholly inadequate, unacceptable and lacking in probative value. The Judges of this Court have noted again and again the conscientiousness of jurors assigned to determine guilt or innocence in this courthouse.

If we cannot place our faith in the common sense and integrity of ordinary citizens then perhaps our great Constitutional experiment is a failure. I believe that such faith can be placed and I believe that with the assistance of able counsel, we can be assured of an impartial and representative jury.

The innocent accused have as much right to vindication as to the guilty to be punished and the responsible, common sense thing to do, is to attempt to obtain such a jury with the aid of the parties—and not avoid it, because the task may be difficult under circumstances which are unique in our history.

Counsel will be expected to submit proposed voir dire questions to the Court, prior to trial. Prospective jurors will be individually examined by the Court on the publicity aspects of the matter. Extra peremptory challenges will be granted both sides. The Jury will be sequestered.

Nothing in the foregoing explanation of the Court's exercise of its discretion at this stage should be taken to approve, even inferentially, the actions of the CIA in encouraging adverse publicity (that was done, and it was detrimental to a defendant), the disclosure by the Senate Select Committee of a claim of self-incrimination by a defendant taken in secret when it was known in advance that he would invoke his Fifth Amendment rights, or if a Presidential broadcast inferring that a defendant should not have invoked his privilege.

These matters, of course, must be invoked and handled at voir dire.

The Special Prosecutor cannot be charged with the responsibility for all this, and comparable instances, because he is a part of the government which, itself, is subject to investigation and challenge for allegedly illegal acts.

Therefore, gentlemen, we will proceed with the selection of the Jury on the date I have indicated, namely, June 17th.

I have also two other matters, briefly, to mention: When these proceedings conclude, I would like Counsel to pick up—for their own attention only and not for distribution—a suggested form of questionnaire to prospective jurors on the sequestration problem which the Court has mentioned to counsel in Chambers and which I would intend this afternoon, after this two o'clock matter is over, to discuss again with counsel in Chambers so that the questionnaire can be made final.

Mr. NEDZI. Mr. Adams, the Chair will observe it is his belief that with reference to this particular subject matter, Judge Gesell does not possess any documents which are not in the possession and knowledge of the subcommittee.

Mr. BOB WILSON. Mr. Chairman, you stated the Assistant Prosecutor, under certain conditions, agreed hearings should go ahead. Did he also agree that he would supply any documents we might request?

Mr. NEDZI. No request was made of him, Mr. Wilson, because frankly I don't know what is back of this. I have some suspicions in terms of going over some of the documents which have been forwarded to the subcommittee months ago, during our whole review of the problem.

The purpose of the hearing is to ascertain precisely what records are referred to, so that we can then determine whether we in fact have those records, and whether they reflect what was alleged.

Mr. ADAMS. Mr. Chairman and Mr. Wilson, if the purpose—I understand the initial purpose is to identify the documents. I thought I had identified them to Mr. Hogan through that transcript, but if not, I would be happy to furnish the subcommittee with a copy of our subpoena, pretrial subpoena, which identifies three documents, the documents in question.

When this subpoena came up before Judge Gesell, the prosecutors indicated they had items one and three, the handwritten memorandum of July 10, 1972, to the file, from [deleted], who is a CIA employee, and item No. 3 on our subpoena, the memorandum from [deleted], to the Deputy Director for Plans, CIA, dated March 1, 1973.

When Judge Gesell was advised the prosecutors did indeed have those documents, he held our subpoena in abeyance and asked that they be produced for his in camera inspection. They were produced and that led to the statements by Judge Gesell I referred to earlier. Those are the documents in question.

The second document which the prosecutors were not able to find was a typed memorandum of July 1972, to the file, from [deleted], which is a typed-up version of his handwritten memorandum. It is not verbatim from the handwritten memorandum. Certain things are not included in the typewritten memorandum that are in the handwritten memorandum. The handwritten one is more full and extensive than the typed rewrite of it.

Mr. BOB WILSON. Do we have this document, Mr. Chairman?

Mr. NEDZI. Yes, we had them for months.

Mr. ARENDS. I would like to ask the attorney, and his client too, in view of what has transpired here this morning in the conversation, and with the assurance this is a very stable committee and things do not come out of this committee, do you have a strong feeling the timing is still bad on our meeting this morning?

Mr. ADAMS. Yes, I do, Congressman.

TESTIMONY OF CHARLES W. COLSON, FORMER WHITE HOUSE COUNSELOR TO THE PRESIDENT

Mr. COLSON. Mr. Arends, I do for another reason. When I entered the plea that I entered, I did two things. I first refused to discuss with the prosecutors in advance what my subsequent testimony might be. The standard practice, I guess, or at least my understanding of the standard practice of plea bargaining is someone comes in and says I will give you this testimony if you will agree to accept the following plea.

I had some opportunities to do that. I declined to take it because I considered it unethical. I don't think anyone who is in the position that I was in can possibly be sure in his own conscience he isn't influencing or coloring his testimony when he is saying to a prosecutor, if you give me this, I will give you this testimony, I just don't think that is moral.

By the same token, the normal processing on sentencing takes 6 to 8 weeks. When I entered the plea, I urged Judge Gesell through counsel to please accelerate the sentencing, even if it was to my disadvantage that I wouldn't have time to have the interviews and the material submitted to the probation officers.

For the same reason that I knew if a 6- or 8-week period elapsed, and some of the individuals involved in the Watergate have pleaded and then waited 1 year to be sentenced, that during that intervening period there would undoubtedly be pressures on me to give testimony that people think would be subconsciously affected by the impact that might ultimately have upon the report.

Mr. Rodino asked that I be made available immediately, and after some consultation, and after his acceptance of the fact that I as a matter of conscience did not want to be testifying in any environment in which the judge could misconstrue, or the public could misconstrue, for that matter, what I was saying as having an effect on sentencing, he declined. The prosecutors, the Special Prosecutor's Office, I think, deserves a great deal of credit, because while they are very, very anxious to get my testimony, they have respected, what was for me at least, a matter of conscience, and said that I would not be called to testify until such time as the sentence has been imposed.

Judge Gesell totally approved of this, even though it was somewhat unusual, because he recognized also that I will be a Government witness in the *Ellsberg* case, and, therefore, he has at considerable inconvenience to the court procedures, I think, accelerated the sentencing so that it actually is taking place in something less than 3 weeks, which I guess is the fastest they have been able to process anyone's sentencing. For that reason, and it is with me strictly a matter of principle. One of the other reasons I entered the plea I entered was to a charge I hadn't been indicted on was to be freed to testify here and before the Rodino committee and before anyone who wants to listen to me, because I believe that my primary obligation and duty as a citizen right now is to contribute whatever I can to the truth to help resolve what I think are more important issues to the United States than my own trial. That is why I entered the plea I entered. So those are the reasons why, Mr. Arends and Mr. Chairman, we had requested that this appearance be delayed until after sentencing. I guess if I had to pick one committee in the Congress that has not had leaks, I would pick this committee. I think it has been extraordinarily careful. That isn't the issue with me. It is an issue of principle.

Mr. NEDZI. Well, let the Chair observe that as I read the charge, it is a very serious one, and it concerns me deeply, as I am sure it concerns the entire subcommittee. And if in fact the kind of situation exists within the CIA which permits deliberately planting stories by individuals by this Agency, that matter should be stopped forthwith.

I think the sooner we have some indication as to what the causes of it are, if in fact the situation does exist, the better off everybody is going to be, and I don't see much relationship between the hearing which is going on in this room today, and the sentencing and the matters before Judge Gesell.

Mr. COLSON. Of course I do, Mr. Chairman, as a matter of conscience, because it is very difficult for anyone who knows that one man, one judge, holds in his hands my liberty and my future. I simply don't want to be in the position where in any way I am in any sense either inhibited or influenced in my testimony by the consideration that it could conceivably come back to the court for its own deliberation.

It is just exactly the same reason—I would tell the truth to the Special Prosecutor in advance of entering that plea just as I would tell it afterward, but I didn't want to even be subjected to the temptation that is inherent to me in either the plea bargaining process or in the process of testifying before sentencing.

If the committee wants me here today, I am here, and I can't do much about that. But it is with me a matter of conscience not to do this

until my own case has been disposed of, and I think that may sound unusual, but I think others have felt that way, and others have felt that the whole process of plea bargaining and sentencing and immunity and holding one out, holding some sort of a carrot out on a stick, just isn't the way to get to the truth.

Mr. NEDZI. Well, if there is no objection from the subcommittee, Mr. Colson, I will put the question to you as to the records referred to in the text of your statement, which was released to the public somewhere in the first week in June.

Mr. COLSON. Those are the documents, I think—

Mr. ADAMS. Those are the documents I referred to, Mr. Chairman. I was going to suggest, Mr. Chairman, perhaps it would best serve all of our purposes if, since you have indicated the subcommittee does have those documents which were subpoenaed and which the Special Prosecutor I understand has had, perhaps the best way to proceed would be for the members of the subcommittee to consider those documents which I have advised you is the basis for the statements that have been made, and if there are residual questions that you feel would be helpful for Mr. Colson to answer—and I am not really sure he can add anything to those documents that is necessary to—perhaps we could do that a week from today, or at some subsequent time.

Mr. NEDZI. Mr. Colson, was your statement based solely on those two documents?

Mr. COLSON. No, it wasn't. Mr. Chairman. I have been made aware from a number of sources that the Central Intelligence Agency sponsored, approved, condoned—as a matter of fact encouraged, the planting of false and malicious and misleading stories about me in a number of major news magazines in an effort to incriminate me in the Watergate, in an effort to divert attention away from a cover firm that the Central Intelligence Agency was under contract with which employed Howard Hunt, the Mullen Co. offices of that company engaged in this practice with the approval and encouragement of the Central Intelligence Agency. To me it is a very shocking thing. When I was first told about this last December, I couldn't believe it. I was told about it by a Member of the U.S. Senate, when he sat me down in his living room in his home and said "Chuck, you were set up by the CIA and I can prove it." I didn't believe him. I didn't believe that could happen. At the time that these stories were first published, I was special counsel to the President of the United States, and the stories were scurrilous, and the stories found their way into a number of national news outlets, and were highly damaging to me and highly damaging to the President of the United States, and I think went a long way to contribute to the public climate that resulted in my being indicted, resulting in the plea I had to take last week in order to be a free citizen.

Mr. NEDZI. Would you like to identify the document?

Mr. COLSON. I could not.

Mr. NEDZI. Could you give us some idea where the stories came from or what they typically were?

Mr. COLSON. I think Mr. Adams has made a very worthwhile suggestion. I know if this committee has the documents, it certainly is in a position to look at them and draw their own conclusions as to whether the Central Intelligence Agency as a matter of official policy encouraged this particular conduct.

Mr. NEDZI. Your statement was that you were not basing it solely on these documents.

Mr. COLSON. That is correct.

Mr. NEDZI. We have the documents. Now what we should determine is what else you are basing this on in order for us to review that part of the evidence.

Mr. ADAMS. Mr. Chairman, may I consult with Mr. Colson?

[Consultation off the record.]

Mr. BOB WILSON. Prior to Mr. Adams making the request, I was going to suggest a comparable course of action. I think it is unfair for us as members to not know the contents of these memorandums, the statements. You are familiar with them as the chairman, and properly so, but I think it is inappropriate for us to bring a man in and question him without even having the background of the reason for the hearing.

Mr. Fisher indicated something in regard to the hearing. Unfortunately I don't take the New York Times. I look at the Los Angeles Times. I didn't see—

Mr. COLSON. San Diego Union. I hope.

Mr. BOB WILSON. San Diego Union—seriously—

Mr. NEDZI. These documents have been a part of the committee record in these hearings for several months—in fact, over a year.

Mr. BOB WILSON. I didn't know that. I think it would be appropriate for us to review them with you and with counsel, and then call the witness to ask specific questions on them. I just feel like I am in the dark.

Mr. NEDZI. I understand your concern, Mr. Wilson. What the Chair is trying to determine is what there is additionally, and Mr. Colson has suggested that there are additional factors here, and certainly we didn't mean to drop this hearing after this morning's testimony. If in fact the allegations have substance, we will call the agency in.

Mr. BOB WILSON. Right, I agree.

Mr. NEDZI. And just get to the truth. The point here is that if Mr. Colson's testimony is that the documents are what he based his statement on solely, then we will get into the documents and ventilate them to our satisfaction.

However, he did state that there were other factors, and what we should determine is what those other factors are.

Mr. COLSON. Mr. Chairman, let me say this: I have not seen the report, 35-page report that has been prepared by Senator Baker and Mr. Fred Thompson of the Special Watergate Committee in the Senate. I understand—and this is purely secondhand, that this matter is pretty thoroughly discussed in that report. I have had different newspaper reporters tell me this. There was an article in the Washington Post—

Mr. NEDZI. The source of your information about that report is solely from newspaper reporters?

Mr. COLSON. No, not solely.

Mr. NEDZI. Where else did you get information about the report?

Mr. COLSON. The newspaper reporters, in fact, have told me some of the circumstances involved in the stories that were planted about me. As a matter of fact, some reporters who have had some pangs of conscience about it have talked to me.

Mr. NEDZI. I am talking about your information about the Baker report, Mr. Colson. Is your information about that report solely from reporters?

Mr. COLSON. No, it is not.

Mr. NEDZI. Would you care to tell us who else has given you information about that report?

Mr. COLSON. Various Members of Congress who are aware of the contents of that, who have said to me—who have given me conclusions from it as friends.

You have all the advantage, Mr. Chairman, of being able to look at all the documents and draw your own conclusions. I have had people draw conclusions for me, which indicate that I had very good justification for saying the Central Intelligence Agency arranged the planting of stories at a time when I was a possible defendant in the Watergate cases. Either it is so, or isn't so, but the committee has many more tools at its disposal to make judgment than I do.

Mr. NEDZI. I am still at a loss to understand what additional information you have about this planting of stories.

Mr. COLSON. The Washington Post—and I will have to go back and get the date for you—it was an interview with Senator Howard Baker. It was on a Monday, sometime during the month of—either the very tail end of March or early April—had an account by a reporter following an interview with Senator Baker, which stated flatly that Mr. Bennett, who was at the time president of a concern which was a cover agency for the Central Intelligence Agency, was spreading stories to the press about me with the approval of the Central Intelligence Agency, with the foreknowledge and approval, in an effort to divert precedence away from the Mullen Co. and the CIA. I find that a shocking thing. If the committee does. I would certainly welcome the committee looking into it. If the committee doesn't, then—

Mr. NEDZI. Are you quoting Senator Baker in this regard?

Mr. COLSON. Well, what I just referred to was an article in the Washington Post. I can't remember whether it quoted him directly or it did not, or whether it was the reporter's own opinion. But the Washington Post was the recipient of some of the stories about me, so I suspect they have firsthand knowledge of it.

Mr. NEDZI. The conclusion is it was planted by the CIA. What we are trying to establish is how it was planted and who did it?

Mr. COLSON. I suspect the committee is in a very good position to find that out. I would love to know all the details of it myself.

Mr. NEDZI. But you made the charge.

Mr. COLSON. That is right, I certainly did.

Mr. NEDZI. Is it based on hearsay evidence, or what was it based on?

Mr. COLSON. I don't have the record of the proceedings, but Judge Gesell has reviewed documentation which caused him in open court to say he could not condone what he learned the Central Intelligence Agency had tried to do in generating publicity about me.

Mr. NEDZI. Would you refer us to where he said that?

Mr. COLSON. Pardon me, sir.

Mr. NEDZI. I assume it is in the statement.

Mr. BRAY. Mr. Chairman, I am so lacking in knowledge about this matter that it is almost speaking in a foreign tongue as far as I am concerned.

Why would these stories be circulated and who is back of them, is the objective to the whole thing.

Mr. NEDZI. I am afraid that is precisely what the Chair is trying to determine.

Mr. BRAY. I see. I thought you knew more about it than I do, but I am at a complete loss to know what this is all about.

Mr. ADAMS. On page 437 of the portion of the transcript you have been furnished, down near the bottom the judge made the statement quote:

Mr. Shapiro, you may assume the article whispers about Colson is attributable to the CIA.

That was his conclusion, based on the documents. It was his way of avoiding public disclosure of the documents in the record. He simply said instead, I will keep the documents in camera and for purposes of the argument you may assume they are attributable to CIA. I apologize I did not include other portions of the transcript in which Judge Gesell made more general remarks about Government-induced publicity in a general sense, in which he included in his concern this particular instance. This was the only one I picked up.

I will go back and comb the record a little more carefully and furnish you that.

Mr. COLSON. We will provide a full record of what Judge Gesell said. I think the portion Mr. Adams just read indicates that at least to the judge's satisfaction, at least one specific article whispers on Colson, in the March 5 or 6 Newsweek, 1973, was: What did he say directly attributable to the CIA?

Mr. ADAMS. Attributable.

Mr. NEDZI. Do you know on what he based that comment?

Mr. ADAMS. Based on the documents that had been furnished to him by the Special Prosecutor.

Mr. NEDZI. The two documents that you referred to earlier?

Mr. ADAMS. That is correct.

Mr. NEDZI. Have you seen those documents?

Mr. ADAMS. I am not sure I can answer that question, Mr. Chairman. On any questions with respect to access to classified material, I believe that at this point I would have to invoke either an attorney/client privilege or the privilege against self-incrimination.

Mr. NEDZI. Are you referring to Mr. Colson as your client?

Mr. ADAMS. That is correct.

Mr. NEDZI. Mr. Colson, have you seen this document?

Mr. ADAMS. Mr. Chairman, on any questions regarding whether Mr. Colson has seen or had access to classified documents, I will instruct him to invoke the privilege against self-incrimination, and that would hold true, of course, of documents, for a different reason, any documents that are being held under seal by the court which we would not be free to talk about.

Mr. ARENDS. Mr. Chairman.

Mr. NEDZI. Mr. Arends.

Mr. ARENDS. As a member of this committee I find myself a little in the dark, too. Perhaps I have been negligent in not keeping myself up to date in all the testimony we have had before this committee.

I ask you this question. You have been certainly fair and proper in everything you have done and I approve your actions in the conducting of the subcommittee activities.

Is there any reason why a delay of this might not interfere with what your objective and purpose is, to the point we would have the committee sit down and discuss this a little bit and talk about that, and get over some of these humps? I personally would like to do that and delay this temporarily.

Mr. NEDZI. I don't think that a delay is going to cause us any kind of irrevocable damage in the process. It was my concern when this came to my attention, that we as quickly as possible get to the heart of the matter. Obviously we are not getting to the heart of the matter.

I understand you are now invoking the fifth amendment, self-incrimination, in not responding to my question as to whether Mr. Colson has seen the document to which you referred, and I assume it is the memorandum prepared by [deleted] dated July 10, 1972?

Mr. ADAMS. That is correct, Mr. Chairman.

Mr. COLSON. I think the Chair should recognize, and I hope the committee does, first of all as we tried to say at the outset, until Friday I am technically indicted in the *Ellsberg* and *Watergate* cases. The Special Prosecutor has announced his intention to dismiss me from those two cases once the judge sentences me to the plea I accepted. The plea I accepted is the one I and my lawyers came up together, and that was I endeavored to disseminate derogatory information against Ellsberg when under indictment. That isn't much different than what CIA did to me.

Until that sentence is imposed on Friday, I am technically in two of those cases. I do not have immunity grant from the Prosecutor that covers all items. I am under a gag order from Judge Gesell which is a very strict one, and we will provide a copy of it for the record because I will be a Government witness in the *Ellsberg* case.

I have been given access to certain information in the process of these court proceedings, which I am not at liberty to discuss. There is a great deal of material, grand jury testimony, that has been made available to me, and other material that has been made available to me in the course of discovery proceedings, which I am not at liberty to discuss.

My hands are tied many different ways, Mr. Nedzi. The only thing I can say to you is that if this committee has access to the same things Judge Gesell has access to, I would simply refer you to Judge Gesell's statement in which he says he at least has read one article which he describes as attributable to the Central Intelligence Agency.

If that is the thrust of your question, I am sure you have a much better basis for finding out whether my charge is supportable or not.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. Mr. Chairman, I defer to you.

Mr. NEDZI. Let me say the thrust of my questions is to determine on what you base—you, Mr. Colson, in your statement, base the charges that the records show that the CIA deliberately planted stories with several major news organizations.

In response to that, you referred me to two documents through your attorney, and said there were additional factors involved. We have the documents which we will review in subcommittee, but we don't have the additional information to which you alluded, and we are trying to seek that.

I am perfectly amenable to postponing this hearing for the purpose of enabling the subcommittee to go into some detail in prepara-

tion for a further hearing, with the understanding that you are going to review these matters and be at greater liberty to advise us as to what the facts are in the matter than you appear to be today.

Mr. COLSON. The facts are on your side of the table, Mr. Chairman. Let me just say this, let me answer your question, if I may, and then make one suggestion respectfully, if I may.

The source of my information is contained in my discovery motion. We did attempt to identify documents as best we could. The source of my information is also what newspaper reporters have told me that they know happened during this period of time, and what a Member of the U.S. Senate told me in December of 1973.

All those three things together lead me to make the statement I made outside of court. The documents alone apparently led Judge Gesell to concur in that statement.

Now, if I might respectfully suggest if the subcommittee will read the documents in full that we identified in our discovery motion, perhaps read the 35-page report prepared by Mr. Thompson and Senator Baker, and if that leaves questions as to which I might have some knowledge that I could give you answers to, I would be just thrilled to do it, because if I can contribute to the process of stopping a smearing by a Government agency, I want to do it.

Mr. ARENDS. Mr. Chairman.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. Mr. Chairman, I would like to ask the witness directly: Can you assure us that you will be able to speak more frankly after your sentence is imposed, in getting to the bottom of the charges that you have raised? We are not the Watergate Investigating committee. Our concern is the CIA. The CIA is not perfect, but when charges are made against it, I think it is imperative to us to try to find out what is going on.

I think obviously mistakes were made by CIA in connection with Watergate, but we are genuinely concerned about the efficiency of the CIA as a part of our defense posture, and if you can reassure us, Mr. Colson, that you will be freer to speak after your sentence, I would feel better about it, calling you back at that time to see if you can help us to get to the bottom of what has happened here.

Mr. COLSON. I certainly would be freer, Mr. Wilson, to speak after the sentencing in a number—I would be freer as a matter of conscience, certainly. I would be happier meeting with you after sentencing, as I indicated before.

I think technically I would have to find out from counsel to what extent any of the court orders bear upon me, but certainly anything that I have any knowledge of, I would be more than happy to impart to you.

I will tell you also I have some suggestions which—I did spend 4 years as Leverett Saltonstall's committee when he was on the oversight committee in the Senate, I did spend 3½ years very close to the President of the United States, and I do have some feelings about this and some opinions and perhaps some experience that I would be more than happy to share with this committee. I think on balance I would be freer.

Mr. ADAMS. Let me add one thing to that. He would be freer to testify with one other point that we do have to keep in mind. A portion of Judge Gesell's concern and the prosecutor's concern is about Mr.

Colson testifying not only here but elsewhere, is based on the publicity problem that they are concerned about in the *Ehrlichman* case. The important date, cutoff date, for that purpose is the sequestering of the jury which was originally supposed to begin to be picked today. That is postponed by Judge Gesell until June 26.

They are concerned about the publicity affecting that case, the important date, and of course, for the gag order of the witness in that case will be the sequestering of a jury after June 21. That is another element.

Mr. BOB WILSON. There are a few more swords over your head?

Mr. COLSON. Not so much swords over my head, as it is the judge's concern which he expressed to Mr. Adams, Mr. Shapiro, and Mr. Merrill of the Special Prosecutor's Office, the strongest way the publicity might prejudice the defendants in the *Ellsberg* case, that it be analyzed. I personally have no concerns about this committee. I will help you any way I can.

Mr. ARENDS. Your objective, your purpose, I am entirely in accord with. I want to support you on that. I would like to be a little more intelligent about this before we have any further testimony.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. I think this is very good. Both you, Mr. Colson, and your attorney, you might want to discuss this with the judge. I think I can say what the purpose of this subcommittee is. Many of the matters brought out in all the Watergate hearings, this committee heard them, you know, before it ever broke there. We kept it out of the press. We had one objective and one objective only, not to get anybody and not to protect anybody.

I believe, and I think the rest of the committee believes the same, that a successful, properly operated intelligence-gathering agency for the country is absolutely essential. It may be getting into local affairs, regardless of how important those affairs may be, they should not get into those. We have one objective and one objective alone, to see what the CIA needs as to legislation or regulation to do the job properly.

I don't want the CIA to be cagey, or anything of that kind. It has been a miracle so far how well it has kept itself out of trouble. It is only by constant effort by them and by this committee—and it has been very carefully selected; there is strictly no leaks.

There are a lot of things we can do. I frankly hope you discuss that both with the court and with the attorney.

Mr. ADAMS. We certainly will raise that. Should you decide you want us to return prior to the sequestering of the jury, and should Judge Gesell and/or the prosecutors raise objections, we will of course cite the record of the subcommittee to them.

Mr. COLSON. I certainly could, without the slightest hesitation, Mr. Bray, represent to the judge and to the prosecutors that I was here a little less than 1 year ago, maybe just about 1 year ago, and nothing was talked about here that has ever come out in the press. It is the only committee in the Congress where that hasn't happened, sir.

Mr. BRAY. It will not. I will say that that is an awfully big job, because if there has never been a case, I don't believe, where intelligence gathering in a period of time, where the information didn't get into things they shouldn't, they would get in serious trouble. We go to the greatest effort to keep this from them. That is our purpose and only purpose.

Mr. COLSON. Let me also say, Mr. Bray, that I would welcome the opportunity to come back to be as totally forthcoming with this committee as I know how. The only reason—I won't say that—the major reason that I pleaded as I did was to be free to do just this, and I want to help, and I want to help in the process of cleaning up the political processes in this country, and I want to help in the processes of any governmental reforms that my experience, both good and bad in Government, would help me to do.

Mr. BRAY. I personally think you can help.

Mr. COLSON. I would like to, sir.

Mr. FISHER. Mr. Chairman, let me make a brief observation. Talking about the CIA, it is inconceivable to me that it is proper to say that CIA plants anything. Some individual in CIA may have done it, and they may say CIA did it, because of the individual, that individual, whoever he was—and I am sure there is basis for it, you convinced me that there is something behind this, and it probably came out of CIA.

But I think it is probably a jumping to the conclusion to say CIA planted it. I think some irresponsible individuals in CIA are responsible. Those persons ought to be fired. We need to find out who it is.

Mr. BRAY. They will employ similar people again.

Mr. NEDZI. That is precisely the Chair's purpose in calling this meeting to determine precisely what the situation is.

Mr. FISHER. It is very proper to pursue it.

Mr. NEDZI. At that point we will determine what kind of action should be taken.

Without objection, the Chair will recess this portion of the hearing and excuse the witnesses.

Mr. SLATINSHEK. Mr. Chairman, may I ask a question?

Mr. NEDZI. Sure.

Mr. SLATINSHEK. Can you establish from the witness and the attorney at what date certain in the future he would be available to the subcommittee and be prepared to discuss in some detail the charges he has made against the CIA?

Mr. ADAMS. I can respond to that, Mr. Slatinshek. It is difficult for us to know what the future is going to hold in the say of specific dates. We know that sentencing is this Friday. We of course do not know what sentence will be imposed.

Beyond that, we know that the prosecutor is very anxious to spend time with Mr. Colson. He will be a witness, a Government witness, in the Fielding break-in case which is scheduled to begin on June 26, as I have indicated.

Subject to whatever restrictions, physical restrictions, or problem that may come out of the sentencing itself, and whatever may be required of Mr. Colson following sentencing and what the prosecutor requires of him, we will be available any time after that date.

Mr. SLATINSHEK. What I am trying to avoid is an open-end situation where you are going to repeatedly raise some protest to appearing before the committee for one reason or another, and I frankly don't think you serve your purpose or ours in doing that.

Mr. ADAMS. I agree.

Mr. SLATINSHEK. I think we should decide now that Mr. Colson will be back right after Judge Gesell has sentenced him.

Mr. NEDZI. Mr. Slatinshek, I think it is obvious that Mr. Colson is at the command of the subcommittee. He has indicated he wants to cooperate. If not, obviously we do have the subpoena power available to us. So I think that we can work out an accommodation through the staff, depending upon how the situation develops.

Mr. COLSON. I don't foresee any extensive delays. The problem is. Mr. Rodino and Mr. Doar have been very, very cooperative in holding back, and Mr. Doar, on Friday, told me he needed 3 weeks of my time. He said, that, I think, literally. The prosecutors have asked me to spend as much time with them as possible, so it will be governed only by a matter of conflicting obligations.

I am only one person. I have a father in the hospital right now. I have been trying to get up to see him and get stuff ready for the probation officer and meet with all the people that want to meet with me. It is a difficult personal problem. But I will be back as soon as possible.

Mr. BRAY. I think it would be to the advantage of you and the committee to be very frank with the district attorney and the court as to what we have asked you, and our purposes and our goal.

Mr. COLSON. Yes, sir.

Mr. BRAY. It might make a little difference for them to be acquainted with exactly what we are doing. As far as the committee—I am not too sure whether it will make a good deal of difference one way or another. It is not a legal proceeding—any confidence you place in them. I don't mean any question as to the confidence there, but I think it is a matter of what you can say in court.

Mr. NEDZI. The Chair would like to request the witness and the counsel to prepare whatever documentation is available to you that can be conveyed to us in support of these allegations and/or a reference to the documents that are within the purview of your knowledge.

Mr. ADAMS. We will be happy to do that, Mr. Chairman.

Mr. NEDZI. At your earliest convenience, and after those are reviewed, we will make an effort to arrange a mutually satisfactory time for an additional hearing.

Mr. HOGAN. Mr. Chairman, in view of this development, may I suggest for the record that it indicate that the subcommittee concurs that the swearing and the executive portions will continue throughout the subcommittee meetings in order that we will not have to repeat that process? May we have the concurrence of the subcommittee on that, Mr. Chairman?

Mr. NEDZI. A quorum being present, and there being no objection, there is a concurrence.

The Chair will now excuse the witness and Mr. Adams. Thank you very much for coming.

[Whereupon, at 11:04 a.m. the subcommittee proceeded to further business.]

[The following letter was received from counsel for Mr. Colson on June 20, 1974:]

DICKSTEIN, SHAPIRO & MORIN,
Washington, D.C., June 18, 1974.

HON. LUCIEN NEDZI,

Chairman, Special Subcommittee on Intelligence, House Armed Services Committee, Rayburn House Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: At the conclusion of Mr. Colson's June 17 appearance before your subcommittee you asked that we furnish the basis for Mr. Colson's

statement of June 3, 1974 following his guilty plea, in which he said, "there are records showing that the C.I.A. deliberately planted stories with several major news organizations accusing me of involvement in criminal activities."

The above statement was made based on the following:

(1) Information obtained by Mr. Colson as to the contents of three C.I.A. documents described in the enclosed subpoena. Two of those documents (items #1 and #3 in the subpoena) were furnished by the Watergate Special Prosecution Force to Judge Gesell, *in camera*, in conjunction with pretrial motions in the Fielding break-in case (*United States v. Ehrlichman, et al.*). After reviewing those documents, Judge Gesell ruled that for purposes of our motion to dismiss, "you may assume that the [March 5, 1973 *Newsweek*] article 'Whispers About Colson' is attributable to the C.I.A." (Attached transcript of May 23, 1974, p. 437). Later, in ruling on the motions to dismiss, Judge Gesell observed:

"Nothing in the foregoing explanation of the Court's exercise of its discretion at this stage should be taken to approve, even inferentially, the actions of the CIA in encouraging adverse publicity (that was done, and it was detrimental to a defendant) * * *." (Attached transcript of May 24, 1974, pp. 10-11).

(2) Information obtained by Mr. Colson as to the contents of the report prepared for the Senate Select Committee on Presidential Campaign Activities following an investigation by Senator Baker and Mr. Thompson.

(3) Newspaper articles such as the enclosed Washington Post story of March 25, 1974.

(4) Information furnished to Mr. Colson by newspaper reporters who were aware of the receipt of such stories by their colleagues.

It is my understanding from your statements at Monday's hearing that the subcommittee possesses the Baker report and the documents referred to in our subpoena. In the event the subcommittee desires to go beyond those documents and to explore further Mr. Colson's views concerning this matter, we will be happy to arrange with Mr. Hogan a mutually convenient date.

Very truly yours,

KENNETH L. ADAMS,
Attorney for Charles W. Colson.

The subcommittee met, pursuant to recess, at 11:06 a.m. in room 2337, Rayburn House Office Building, the Honorable Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. HOGAN. A memorandum for the record. The subject is meeting with Robert Foster Bennett and his comments concerning E. Howard Hunt, Douglas Caddy, and the Watergate five incident.

[The following information was received for the record:]

MEMORANDUM FOR THE RECORD

Subject: Meeting with Robert Foster Bennett and his Comments Concerning E. Howard Hunt, Douglas Caddy and the "Watergate Five" Incident

The writer met with Robert Foster Bennett, President of the Robert R. Mullen Co. at noon on 10 July in the Hot Shop Cafeteria on H St., N.W. near 16th St. at his request to be brought up to date on developments resulting from the "Watergate Five" incident.

Mr. Bennett said that when E. Howard Hunt was connected with the incident, reporters from the Washington Post and he thought the Washington Star tried to establish a "Seven Days in May" scenario with the Agency attempting to establish control over both the Republican and Democratic Parties so as to be able to take over the country. Mr. Bennett said he was able to convince them that course was nonsense. He asked them why they should want to ruin himself, his Company and other innocent persons because the Company has innocently hired Hunt following his retirement from CIA.

Mr. Bennett was aware that the original plan when Hunt was hired was for Hunt to become president of the Company after a few years. Instead, General Foods stated its wish to buy the Company whereupon Robert R. Mullen revealed that he had given an option for purchase to Mr. Bennett and that General Foods would need to negotiate with Bennett. Douglas Caddy had for some time occupied space in the Mullen Company office as the representative of General Foods which is one of Mullen's principal accounts. For a time, consideration was given to a partnership arrangement with Bennett, Hunt and General Foods. Caddy,

however, became so impossible in his attitude that Mr. Mullen complained to General Foods, and asked that Caddy be given new instructions concerning cooperation with the Mullen Company or removed. General Foods responded that inasmuch as Caddy had failed to comply with its instructions, he would be discharged. Bennett said Bob Mullen obtained for Caddy his job with the law firm currently employing him. According to Bennett, Caddy is extremely conservative in politics and is to the "far far right".

Howard Hunt was not able financially to become a partner. He then asked Bennett to increase his \$24,000 annual salary to \$37,000 which he would be earning if he had remained with CIA. Mr. Bennett refused the salary increase and suggested that he would give Hunt 10% of the profits if Hunt would buy 10% of the firm and assume responsibility for 10% of the notes which Bennett had signed when purchasing the Company from Bob Mullen. Hunt, after consulting his attorney, turned down the proposal and with Bennett's approval discussed his situation with Bob Mullen who somewhat bluntly informed Hunt that Bennett's proposal was a fair one. Hunt complained to Bennett that Mullen had practically suggested that he leave the company. Mr. Bennett believes, that as a result, Hunt is disenchanted with Bob Mullen and "has no love for Bob".

About this time, Hunt established his White House contact and with Bennett's blessing became a consultant at the White House for \$100.00 per day and was placed on a consultant basis also by Bennett at \$125.00. When asked by the writer whether Hunt had obtained the White House position via Charles Colson, as reported in the press, Mr. Bennett indicated there was some other intercession. (I have a feeling that Bennett may have participated in this as he said he had suggested the Mullen per diem arrangement to secure the \$24,000 income with another position to enable Hunt to earn the requested \$37,000). Mr. Bennett complained that Hunt had taken advantage of the Company on the arrangement. Mr. Bennett said the substitution of the consultant basis for the salary basis was fortunate as he was able to show the Grand Jury that Hunt had not worked for the Mullen Company on the same dates when with the White House.

Mr. Bennett said that the mission of the "Watergate Five" was to rejuvenate the bugging apparatus in the Democratic National Headquarters in the Watergate. Hunt had told Bennett that "THEY" had obtained such "great stuff" from the bug before it failed to function that McCord et al were instructed to install new batteries, mikes, et cetera, to make it work again. Hunt never identified "THEY" to Bennett who suspected that the order might have originated with Colson on a "I don't want to know about it, but get it done" basis, or the money came from a "RIGHTIST" group Caddy being "far far right" and Hunt also "conservative and to the right".

Bennett said the White House did a complete investigation of Colson's association with Hunt and had to be satisfied that he was not involved with Hunt's escapade with the Watergate Five. Of course, said Bennett, Colson could be lying. Bennett said he knew from an absolutely reliable source that President Johnson in 1968 had instructed the FBI to "bug" Nixon Headquarters and other prominent Republicans and surmised that the Republicans were retaliating without the knowledge of President Nixon.

Bennett recalled that Hunt had a private phone in his Mullen Company office in the name of "E. Warren" which was one of his pen names. Hunt had instructed initially that none but he was to touch the phone. He later asked that Mr. Bennett's secretary answer if Hunt was away from his desk. She commented to Bennett that a news story revealed that one of Hunt's pen names was E. Warren, the name used for the private phone. Mr. Bennett said that the D.C. police believe that nine persons were involved in the Watergate incident. The four men, besides McCord, who were arrested had registered at the Watergate in May as well as on the date of the abortive bugging attempt. Actually nine men ate dinner together that night. Bennett suspects that Hunt was among them and mentioned in this regard the trip taken to Miami by Hunt.

Mr. Bennett stated that Hunt's wife was aware of Hunt's association with the group involved in the Watergate incident. She said she can understand why Mr. Bennett fired Hunt and why the Mullen Company clients would refuse to have any future association with Hunt. Bennett claimed that he doesn't know Hunt's whereabouts.

Mr. Bennett related that he has now established a "back door entry" to the Edward Bennett Williams law firm which is representing the Democratic Party in its suit for damages resulting from the Watergate incident. Mr. Bennett is prepared to go this route to kill off any revelation by Ed Williams of Agency

association with the Mullen firm if such a development seems likely. He said that he would, of course, check with CIA before contacting Mr. Williams for this purpose.

Mr. Bennett presently believes there is little likelihood of exposure of our current cover arrangements. He did not even mention [deleted] and said only that [deleted] was shocked by Hunts alleged participation in the Watergate plot. If the Republicans are established as part of the conspiracy, [deleted] said he would not vote for Nixon!!!

Bennett will be in Miami at the Democratic Convention from Monday evening, July 10, to Friday July 14. Bob Mullen will return from the Far East on Tuesday, July 11. I made no reference to any concern on our part beyond the effect of the Watergate incident or that we plan to meet with Mullen and Bennett to discuss termination of the covers. I told Bennett that I would suggest to Ed Naehar, (Mullen cleared accountant) that if necessary Mullen should call me or I would telephone Mullen at this residence. Bennett stated that to this knowledge unwitting company employees knew me only as "a friend of Mr. Mullen's".

Mr. HOGAN. That is the end of that memorandum for the record, Mr. Chairman.

Mr. NEDZI. Thank you.

Mr. HOGAN. Which is the typed version, I might add, sir, typed version of the [deleted] handwritten memorandum.

The other memorandum referred to by Mr. Adams is dated March 1, and for the benefit of the subcommittee I will have counsel read that into the record.

Mr. HOGAN. March 1, 1973, memorandum for: Deputy Director for Plans. Subject: Current Time magazine investigation of Robert W. Mullen and Co., connection with Watergate incident.

[The following information was received for the record:]

MARCH 1, 1971.

Memorandum for: Deputy Director for Plans

Subject: Current Time Magazine Investigation of Robert R. Mullen & Company Connection with the Watergate Incident

1. Mr. Robert R. Mullen, president of Robert R. Mullen & Company, telephoned CCS on the morning of February 28 to advise us that Sandy Smith, a reporter from Time Magazine, was in the Mullen office late on February 27. Smith started off by saying that "a source in the Justice Department" had informed him that the company "is a front for CIA." Mr. Mullen denied the allegation stoutly, said the company clients are all legitimate and offered to let Smith inspect the company books. Mr. Mullen said that his intuition was that Smith was on a fishing expedition and really had nothing to substantiate his suspicions.

2. Smith had many questions concerning Howard Hunt, such as how he secured Mullen employment and his salary. Mullen told him the company paid him a salary initially and later on a consultant basis when Hunt began to work for The Committee to Re-elect The President. Smith wondered about Hunt's source of income as there is no record in above Committee's records of payments to Hunt. Mullen informed Smith that one source of Hunt's income was a government pension which, according to Hunt, was sizeable.

3. Mullen told Smith that Bob Bennett, partner of Mr. Mullen who was on a business trip to California, really knew most about Hunt's later period of Mullen employment. Mullen could not show Smith records concerning Hunt as they are in possession of the U.S. attorney.

4 Bob Mullen again telephoned CCS at 1650 hours on February 28, 1973 as a follow up to his morning call, as reported above.

5. Sandy Smith, the Time reporter, was in again in the late afternoon and told Mr. Mullen that he had just seen, through an FBI contact, a paper allegedly personally delievered by a high official of CIA to Mr. Pat Gray, Acting Director of the FBI, during the height of the Watergate flap and investigation of Howard Hunt last summer.

6. It was evident that Smith at least knew of the existence of such a document, but Mr. Mullen could only guess that Smith had not seen it long enough to digest it, or it said so little that Smith is trying to develop more information.

7. Mr. Mullen continued to deny being associated with the Agency in any way except for the Cuban Freedom Committee, which connection had been

admitted by Bob Bennett in June to the news media and U.S. attorney. Smith told Mullen, whom he has known for years because of some association in New York, that he is now in his "corner," but would be most unhappy if he ascertains that Mullen is not leveling with him. Mullen does not trust Smith and is certain Smith will write up whatever he develops. Presumably Time would publish the article.

8. Mullen would like to know what exactly we gave the FBI so that he can tell Smith what he already seemingly knows from our memorandum to the FBI, or at least know how to best cope with Smith. Mr. Mullen requested that our reply be given him during the evening of February 28.

9. Attached is a copy of the June 21, 1972 Memorandum for the Acting Director of the FBI from the Office of Security concerning Robert R. Mullen Company. Possession of the contents of this memorandum by Mr. Smith could be very damaging to the Agency and the company. The last sentence of Paragraph 4 states "Mr. Hunt was aware of the [deleted] under Robert R. Mullen and Company." Paragraph 5 relates that Mullen Company employees have been witting of the company's ties with the Agency. Paragraph 7 states "In view of the extreme sensitivity of this information concerning the current use of Robert R. Mullen Company, it is requested that this report be tightly controlled and not be disseminated outside your Bureau."

10. Mr. [deleted] C/CCS and the CCS case officer for the Mullen Company, Mr. [deleted], discussed the above with Mr. William E. Colby and Mr. [deleted] at approximately 1800 hours on February 28. It was agreed that Mr. Colby would recommend to the DCI, Mr. Schlesinger, that Messrs. Mullen and Bennett be allowed to read the June 21, 1972 memorandum to the FBI and that they be asked to continue to deny any allegation of association with the Agency, and state in effect that there was no relationship, and if there were, it, of course, would not be admitted. Mr. Schlesinger did endorse the proposed course of action.

11. Messrs. [deleted] of CCS met with Messrs [deleted] at 0840 hours on March 1 to inform them of developments which endanger [deleted], who is [deleted]. It was decided that Mr. [deleted], would further discuss with Mr. Mullen and Mr. Bennett, who had returned to his office, the Smith visits, allow them to read the June 21 memorandum to the FBI and propose the immediate return of [deleted] to the United States and termination of the [deleted] arrangement, the last with the company as the [deleted] cover was terminated in August 1972.

12. Mr. [deleted] and Mr. Mullen met near the Watergate and proceeded to Mr. Mullen's apartment in The Watergate through a rear entrance to The Watergate. Mr. Bennett joined them shortly and both read the memorandum. It developed that Mr. Bennett had been present during the second meeting with Mr. Smith, Messrs. Bennett and Mullen both were of the opinion that Smith had not seen the memorandum. They suggested that he had only heard of its existence or had seen an FBI report which summarized the memorandum and said only that the company had provided cover for the Agency. They felt that if he had seen the memorandum, he would not have re-visited them or would have accused them on the rather specific information contained in the memorandum. They said they would continue to deny any association with the Agency other than the already acknowledged relationship with the Cuban Freedom Committee.

13. They related that they told Smith he was beating a dead horse and that the Washington Star, Washington Post and Los Angeles Times had already investigated and concluded that the Mullen Company was not involved in the Watergate affair or the allegation that the CIA had instigated the Watergate Affair. It was an intriguing theory which just died. Mr. Bennett said that he recently spent four hours in Los Angeles being interviewed by a Newsweek reporter and had convinced him that the Mullen Company was not involved with the Watergate Affair. Mr. Bennett rather proudly related that he is responsible for the article "Whispers about Colson" in the March 5 issue of Newsweek. Mr. Bennett does not believe the company will be bothered much more by the news media which is concluding that "the company is clean and has gotten a bum rap while the real culprits are getting scot free." Mr. Bennett said also that he has been feeding stories to Bob Woodward of the Washington Post with the understanding that there be no attribution to Bennett. Woodward is suitably grateful for the fine stories and by-lines which he gets and protects Bennett (and the Mullen Company). Typical is the article "Hunt Tried to Recruit Agent to Probe Senator Kennedy's Life" on page A16 of the Saturday, February 10, 1973, Washington Post. Mr. Bennett mentioned the February 12, 1973 meeting

among himself, Mullen and [deleted], when he stated his opinion that the Ervin Committee investigating the Watergate incident would not involve the company. He said that, if necessary, he could have his father, Senator Bennett of Utah, intercede with Senator Ervin. His conclusion then was that he could handle the Ervin Committee if the Agency can handle Howard Hunt.

14. Mr. Bennett reported that he is well acquainted with a Charlotte, N.C. attorney named McConnell to whom Senator Ervin offered the position of Chief Investigator of the Congressional Committee investigating the Watergate incident. Mr. McConnell, according to Bennett, declined the offer because he is a millionaire in his own right and doesn't need to put up with all the grief associated with such a position. Mr. Bennett said he asked McConnell to inform Senator Ervin that Mullen, Bennett and the company are 100 percent clean of any involvement in the Watergate. Bennett is certain that Senator Ervin has no desire for revelation of legitimate arrangements or to harm the Agency and would avoid questions concerning our overseas cover placements. Mr. McConnell subsequently told Bennett that he and Senator Ervin were the only passengers on a private plane recently and he discussed Bennett, et al., as requested by Bennett. Mr. McConnell believes Senator Ervin accepted his comments and will not attempt to further involve the Mullen Company people. Bennett believes he and his Agency affiliations will not be raised again. He has the Ervin Committee shut off and feels the Agency has the responsibility to persuade Howard Hunt to avoid revealing what he knows of the history of cover arrangements with the company. Bennett and Mullen further suggested that the Agency "plug the leak" in the FBI and/or Department of Justice.

15. At this time the Agency proposal to bring [deleted] back PCS prior to 10 March with the legend that [deleted] has become disenchanted with the company, does not like the change in ownership from Mullen to Bennett, and has several job proposals he wishes to pursue was then set forth. They said that on the contrary Bennett and [deleted] get along very well and [deleted] is deeply involved in a Bennett project described as the art fund which purchases and sells paintings and works of art. Bennett said that [deleted] and his wife persuaded him to permit them to invest personal funds in the project and that [deleted] is devoting considerable time to it. It would do Bennett and the company serious financial damage if [deleted] were not permitted to continue. It is especially important that he be at the Art Show in Denmark from 1 June to 15 June 1973.

16. They proposed that they request [deleted] to return next week for consultation. The company has lost the [deleted] account to which [deleted] devoted some time, and new accounts are being acquired. [Deleted] could be kept away from the D.C. area by immediately assigning him to prepare the SUMMA Summit Conference in late April in Las Vegas. Summa consists of the top executives of the Howard Hughes companies and is the successor in the Hughes empire to the Hughes Tool Company, which was sold. [Deleted] with his extensive overseas experience, might also be a speaker. The Summa Conference will be a "dry run" for similar conferences which the Mullen Company is planning to do in representatives West Coast cities to acquaint top West Coast executives with matters of interest such as pending legislation, overseas competition and the like. Bennett believes that if May 1 passes without any serious compromise, then nothing will happen. [Deleted] could then handle the Art Show in Denmark from 1 June to 15 June and then to [deleted], or if we prefer to [deleted] where the company has business interests sufficient to support [deleted]. Mr. Mullen also recalled our proposal of two years ago for Mullen and Bennett took the position that while it was easy to ascribe the opening and closing of the [deleted] office to an experiment, it would be difficult to explain closing in Europe where [deleted] presence as a vice president "has been trumpeted" among their clients, business prospects and in their literature. It would hurt badly and cost lots of money to end this one.

17. [Deleted] broached the possibility of the company continuing [deleted] as a legitimate employee if the Agency should be unable to locate an appropriate assignment for him. Mullen said that [deleted] does not possess qualifications such as the ability to write, which are requisite in the public relations field, but is an excellent businessman. [Deleted] asked whether [deleted] might assist in servicing the Hughes account. Bennett responded that the Hughes account cannot stand further expenses and some new clients would need to be obtained to support the legitimate employment of [deleted]. The proposal was not rejected, but it was evident that the company prefers the current arrangement which is supported almost entirely by the Agency. Mullen and Bennett both like and admire [deleted] and might employ him if [deleted] employment with the Agency termi-

nates. It was learned that [deleted] discussed with Mullen the possibility of [deleted] resigning from the Agency to accept legitimate Mullen Company employment if the company needs so warranted.

18. Concerning the employment of Howard Hunt in May 1970, Bennett said smugly that he wasn't responsible and Mullen wishes now that he had not hired him. He recalled that as head of the Marshall Plan some 25 years ago, he became acquainted with Hunt. [Deleted] Retirement Division, Office of Personnel, approached Mullen concerning the qualifications needed by Hunt for public relations work and possible leads for employment for Hunt who was retiring from the Agency. Mullen stated that [deleted] "twisted my arm pretty hard" and he hired Hunt. Mullen believed that DCI, Helms, wished him to employ Hunt, especially after receipt of a splendid letter of recommendation of Hunt from Mr. Helms who later personally expressed his appreciation to Mr. Mullen for hiring Hunt. Mr. Mullen said he honestly believed, as a result of the pressure exerted by [deleted] that the Agency wished him to resolve problems attendant to Hunt's retirement by hiring Hunt.

19. The meeting concluded with Bennett stating that if [deleted] cover employment with Mullen is terminated before the mid-June ending of the Art Show in Denmark, it will hurt Bennett badly and cost him lots of money. Both then commented that they were "not letting the Agency down. Don't you let us down."

Mr. NEDZI. The committee will stand in recess until further call of the Chair.

[Whereupon, at 11:33 a.m. the subcommittee recessed, subject to call of the Chair.]

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ARMED SERVICES,
SPECIAL SUBCOMMITTEE ON INTELLIGENCE,
Washington, D.C., Tuesday, July 2, 1974.

The subcommittee met, pursuant to notice, at 10 a.m. in room 2337, Rayburn House Office Building, Washington, D.C., Hon. Lucien N. Nedzi (chairman of the subcommittee) presiding.

Mr. NEDZI. The subcommittee will come to order. For the record, I note at our last meeting on June 17, we agreed to continue this inquiry in executive session and to continue the Chair's authority to swear the witnesses pursuant to that authority. Mr. Robert F. Bennett will be sworn.

Now, Mr. Bennett, I believe that Mr. Hogan has indicated to you the area in which the subcommittee is interested. Do you have any statement that you would like to make in that regard before we proceed?

Mr. BENNETT. No, Mr. Chairman. I thought that I would come and respond to your questions and comment as I go along.

Mr. NEDZI. Could you describe for the subcommittee what your relationship with the CIA was?

TESTIMONY OF ROBERT F. BENNETT

Mr. BENNETT. Yes. In January 1971, I joined the Robert R. Mullen Co. with an agreement to purchase the company from its then present stockholders, Mr. Mullen, Mrs. Elizabeth Colclough, and Mr. Earl Minderman.

I had conversations with Mr. Mullen about the possibility of my joining the company and buying it from him for several years. I felt that I wanted to spend 2 years in the executive branch gaining that experience before I made the purchase of the company.

Now, I had served 2 years as director of congressional relations for the Department of Transportation as a member of Secretary Volpe's staff. When I joined the company in preparation to make the purchase, I asked to see the books. In going over them with the bookkeeper, I came across a number of entries that I was not able to understand. I questioned the bookkeeper at length about these entries, particularly with respect to funds that we had received from organizations that I could not at the time identify.

Further, the bookkeeper told me that I would have to ask Mr. Mullen. He said that he was not in a position to explain the entries to me. When I questioned Mr. Mullen, he then told me that the Mullen Co. had a contract with the CIA under which the CIA would place their employees on our payroll at selected cities abroad. They would use our name as a cover for their CIA activities. This was my first knowledge of any CIA connection with the Mullen Co.

Mr. NEDZI. Was this the first time that you had anything to do with the CIA?

Mr. BENNETT. Yes.

Mr. NEDZL. You had never had any previous contact with them in any form?

Mr. BENNETT. Not that I knew about.

I naturally questioned Mr. Mullen at some length on this arrangement. I felt that I had to know as much as I could about it before I continued with my plans to purchase the company. He told me it had been established some years before, that it was carried on without profit by the company. It was simply a service that we performed for the Government as a patriotic gesture. I saw nothing wrong with that. I still see nothing wrong with that. I agreed to continue to do it through the period that I owned the company. He also told me on that particular occasion that Howard Hunt, that worked at the company when I joined the firm, had been a CIA officer prior to his retirement, and that he was aware of this particular arrangement; also, that the other employees of the company were not aware; that during the entire period, he had run the company. He had managed to keep this arrangement with the CIA from the other people that worked there, except, that is, for the bookkeeper.

Consequently, I discussed this activity only with Mr. Mullen, the bookkeeper, and Mr. Hunt during the period that it continued.

After Mr. Hunt's name became connected with the Watergate affair, I was faced with the question of how to deal with the publicity that came to the firm and, at the same time, preserve the security of the arrangement that we had with the CIA. I conducted myself in a manner that I felt the situation called for. I made myself available to any responsible reporter to discuss the Watergate affair.

Now, I very deliberately did not discuss anything relating to the CIA. On several occasions when asked pointblank by the reporters if the firm had any CIA connections, I denied them. I did, however, in my first interview with Earl Silbert, the prosecutor of the Watergate case, explain fully and completely all our arrangements with the CIA. I said to Mr. Silbert that, while I denied the arrangement to the press. I had no intention of denying this under oath if he were to ask me about them; that is, either before the grand jury or during the course of the trial. I would answer truthfully. As a result, the arrangement would be exposed. He agreed that there was no purpose in exposing the arrangement. This had no bearing whatsoever on the Watergate break-in. Consequently, he did not ask those questions under oath.

I made no public statement with respect to them. The CIA, in late summer of 1972, came to Mr. Mullen and to me through our case officer, Mr. Marty Lukoskie—and I am sorry, but I don't know how to spell the name.

Now, this is to say that the security of the man that was posted in [deleted] had been compromised and the CIA had no choice but to remove him immediately.

Consequently, we went through the rather embarrassing problem of closing the office in [deleted]. I made a trip to [deleted] where I met with the attorney handling our affairs there, and the accountant, as such, who was handling our books, neither of whom were with him. I wrapped up the affairs of the [deleted] office in 1973, in the spring. I am sorry, but I don't have the exact dates, but the CIA came to us again to say that they felt that the time had come to terminate the arrangement in [deleted].

After several conversations with them as to the details of this, the [deleted] office was also closed, although in a much more orderly fashion than [deleted] had been.

The man that had represented the CIA and us in [deleted] was brought home. His name is James Everett. Upon arrival home, Mr. Everett was told by the CIA that he was being terminated at the time.

Mr. NEDZI. Was he ever referred to by any other name, Mr. Bennett?

Mr. BENNETT. There is, in the CIA records, a code name for him. I have seen it, but I do not remember it.

Mr. NEDZI. Thank you. Please proceed.

Mr. BENNETT. Now, Mr. Everett felt that he had been badly used by the CIA, having devoted 14 years to their service. He complained about being terminated without retirement or some compensation.

Out of a sense of compassion, I agreed to take Mr. Everett onto my payroll. I attempted to teach him public relations skills that would be marketable so that he could, in fact, earn a living since we were the only reference that he was allowed by law to give on a résumé while job hunting.

As a footnote, I am happy to report that this has worked out. Mr. Everett has employment. We were able to make a contribution to him in that regard.

Mr. Chairman, those are the bare bones of the situation. I know that there are many side incidents which have been reported in the press and speculated about. I will be glad to respond to any questions about any of those that you may have. I think I will stop at this point and let you ask me those questions rather than attempt to cover the entire ground.

Mr. NEDZI. Thank you, Mr. Bennett.

Prior to your comments to the press in which you indicated that the company was not involved with the CIA, did you have any contact with the CIA relative to that matter?

Mr. BENNETT. No, I did not.

On July 10, 1972, after I had several contacts with the press—

Mr. NEDZI. Excuse me. This was subsequent to having several contacts with the press?

Mr. BENNETT. Yes.

Mr. NEDZI. Can you recall what reporters or which newspapers you had contact with, or any other media contact, Mr. Bennett?

Mr. BENNETT. I cannot give a definitive list. Virtually everybody in town called me in that period.

Mr. NEDZI. Can you recall any of the reporters that called you?

Mr. BENNETT. I can recall specifically denying any relationship with the CIA to a reporter from the Washington Star. I don't recall his name. I recall a conversation with Bob Woodward of the Washington Post. It was not definitive at the time.

Mr. NEDZI. What do you mean by that?

Mr. BENNETT. It simply covered the fact of having worked at the company and expressing bewilderment at Howard and what the situation was.

Now, in this period, Howard had not been charged with the crime. He disappeared. I suspended him from his job for failure to show up for work. The conversation was all in the speculative area as to what was going on. I don't know that kind of thing.

Mr. NEDZI. This was prior to any discussion with anybody? This was prior to July 10?

Mr. BENNETT. Yes.

Mr. NEDZI. Please go ahead.

Mr. BENNETT. Howard's principal assignment for us was to work on a contract that we had with the Department of Health, Education, and Welfare. Under the terms of that contract, we were to publicize the work of the Bureau of Education for the Handicapped. The purpose of the contract was that many parents with handicapped children are unaware that there is help that is available to them. There is no list of parents available anywhere. You can't go out and find them.

Consequently, we had to go to the media in a massive publicity campaign to try to reach the parents and have them bring their children there to receive the treatment that Congress set up for them when they created this. This was the purpose of our contract. This was Howard Hunt's principal activity at the time, sir.

Mr. NEDZI. This is not really pertinent to this inquiry, but the thought occurs that there are hundreds of handicapped schools around the country with kids that have a learning problem. They are cataloged in a particular school. Were not these lists available from the school boards?

Mr. BENNETT. The list of schools is what was furnished to the parents when they wrote in, having seen one of the television commercials that we produced. A parent says, "How can I get help?" The answer to this is to go to the school in your area and this is as follows. That was part of the process of the particular contract.

Now, the reason that it is relevant to this is because, in my opinion, since that was Howard's principal work for the firm with public money involved, it came under the Freedom of Information Act, the amount of money paid to Howard and the amount or the kind of work that he did, this was, in my view, a matter of public record. Therefore, I felt that I had a legal responsibility to respond to any legitimate press inquiry about Howard's work.

Had he been working on a purely private account for a purely private client I might have felt freer to say no comment or, frankly, it is none of your business when somebody calls; but since he was paid with public money and worked on a public contract, I felt a responsibility to be available to the press and explain everything—explain fully everything that he was doing for the firm.

Mr. NEDZI. Did anybody contact you to make that point or regarding it?

Mr. BENNETT. Yes; it was a reporter for the Los Angeles Times. I believe I had contact in that period with a reporter from Newsweek. I am virtually sure the New York Times called me. I cannot be definitive about everyone, but that was a period when, quite frankly, my phone was ringing continually throughout the day.

Now, after I had my first interview with Mr. Earl Silbert, the prosecutor, and had handled the flood of press inquiries and had the specific inquiry about the CIA, which I denied, I felt that I ought to touch base with my case officer and tell him what was going on.

I requested a meeting with Mr. Lukoskie. We had lunch at the Marriott Hot Shoppes Cafeteria on H Street. I briefed him on what I had told the prosecutor and what I had told the newspapers also.

Then we had a general conversation about the whole situation on which, or in which, he asked me what my speculation was. I told him, that based on what I knew and felt, that I thought the chances were very good that Howard Hunt was involved in the Watergate break-in, that he would probably be charged with a crime or the crime.

Now, I had no idea at the time that he was planning to write this conversation into a memo and circulate it, as I now know that he did. Had I known that, I would have requested permission to see the memo before it was circulated to make sure that anything attributed from me actually came from me. I had no such opportunity.

Mr. NEDZI. When was your last contact with the CIA on any matter prior to July 10?

Mr. BENNETT. The last one?

Mr. NEDZI. Yes; prior to then?

Mr. BENNETT. I cannot recall.

Mr. NEDZI. Had you any general idea prior to the Watergate break-in, for instance, Mr. Bennett?

Mr. BENNETT. Oh, indeed, yes. We were having discussions with Mr. Lukoskie about the transfer of Mr. Everett. The suggestion had been made to us that it might be necessary for the CIA to transfer him to [deleted]. We pointed out to them at the time that, while we wanted to cooperate in any or every way that we could, there was no justification for our having an office in [deleted]. This was stretching things considerably to have an office in [deleted]. We were complaining that this was not in our interest; that it probably would mean termination of the arrangement.

We happened to know it would mean personal hardship for Mr. Everett.

Mr. NEDZI. Can you tell the subcommittee approximately when that meeting took place, that is, the last meeting involving that particular subject?

Mr. BENNETT. I would be guessing on this because I have made no notes of any of the meetings. I have not written them on any calendar.

Mr. NEDZI. We will accept your best guess. The purpose here is not to pin you down, but to get a general idea. We just want a general idea of the time interval that elapsed between the last time that you saw him and July 10?

Mr. BENNETT. Some time in the spring of 1972.

Mr. NEDZI. The break-in took place on June 17. Would that be in May or April, or the beginning of June?

Mr. BENNETT. In my memory, I would place the meetings more in April or May. I am in no position to contradict hard evidence to the contrary.

Mr. NEDZI. In the course of those meetings, were they meetings which concerned themselves solely with the [deleted] problem?

Mr. BENNETT. Yes.

Mr. NEDZI. Was there any reference to Howard Hunt or to your relations with him?

Mr. BENNETT. No. It was always assumed by me and, indeed, still is, that Mr. Hunt had retired from the Agency, had no active ties with the Agency, that his work for us had nothing to do with the Agency. We did not use him in any way in connection with the CIA activities in either [deleted]. He was not present at any of the meetings where we discussed those arrangements.

Mr. NEDZI. Are you telling the subcommittee that on July 10 of 1972, that this was the first time you had raised Mr. Hunt's name in conversation with any of your contacts with the CIA?

Mr. BENNETT. Substantively, yes. I will not say that Mr. Hunt's name did not come up in the conversations in the other meetings. He was never a subject of any substantive discussion until the 10th of July.

Mr. NEDZI. When did you next have any contact with the CIA subsequent to July 10?

Mr. BENNETT. I cannot recall the exact dates. At the July 10 meeting we agreed to keep in touch as this thing unfolded.

We did occasionally do this by phone. There were also occasional meetings. They were not regular in any sense. They were not formal in any sense. Again, I find myself somewhat surprised to learn that, after each meeting a memo was written. It became part of a file on the case.

Now, Mr. Mullen and I certainly had no indication that this was being done, or that we were doing anything beyond simply updating the case officer in this situation.

The next substantive meeting that I can recall is the one where we were told that the security for the [deleted] office had been broken, that is was necessary to remove the man from [deleted]. I would place that in August 1972, although it could be a month either way.

Mr. BRAY. Mr. Chairman.

Mr. NEDZI. Yes, Mr. Bray.

Mr. BRAY. One thing is not quite clear. Now, about the memorandums that you did not know were being taken down, who was doing this when they were made?

Mr. BENNETT. Mr. Lukoskie, my case officer.

Mr. BRAY. From the CIA?

Mr. BENNETT. Yes.

Mr. BRAY. You did not know at the time that he was making the memorandums?

Mr. BENNETT. That is right.

Mr. BRAY. But you knew that he was from the CIA?

Mr. BENNETT. Yes.

Mr. BRAY. Thank you.

Mr. NEDZI. Did you ever receive any instructions from anyone in the CIA to misrepresent or to refuse to represent the truth to the press?

Mr. BENNETT. In the July 10 meeting with Mr. Lukoskie when I told him that I denied to the press that Mullen had any CIA ties, he expressed approval of that. He urged me to continue to take that posture.

On a subsequent occasion when a reporter from Time magazine, Mr. Sandy Smith, came in to see Mr. Mullen saying that he had seen a piece of paper which detailed the relationship between the Mullen Co., and the CIA, then Mr. Mullen called the CIA to tell them that Mr. Smith had this piece of paper and to report to them that he, Mr. Mullen, had denied any relationship with the CIA.

Now, he was told on that occasion, I understand, that this was to be our posture and that we would continue to deny this to the press.

Mr. NEDZI. By whom was he told that?

Mr. BENNETT. I don't know. I assume that it was Mr. Lukoskie, but I am not sure.

Mr. NEDZI. Did you ever meet with anybody from the CIA except Mr. Lukoskie?

Mr. BENNETT. Yes. We discussed the placing of the CIA officers, both Mr. Everett's situation in [deleted] and the situation in [deleted]. We were introduced to Mr. Eric Eisenstadt. Mr. Eisenstadt was never formally identified to me beyond being Mr. Lukoskie's superior.

Mr. Eisenstadt discussed with us the transfer of Mr. Everett. Mr. Eisenstadt was present as we discussed the closing of the [deleted] office. It was Mr. Eisenstadt with whom we negotiated the final termination of the relationship between the Mullen Co. and the CIA when the [deleted] office was closed.

Mr. NEDZI. Can you give the subcommittee some idea as to when these meetings took place?

Mr. BENNETT. When they did?

Mr. NEDZI. Yes.

Mr. BENNETT. I cannot recall the first time that I met Mr. Eisenstadt. I recall the circumstances, but I cannot recall the date because the meeting had to do entirely with the question of Mr. Everett's possible transfer from [deleted]. The first meeting with Eisenstadt that had anything to do with what I assumed to be the interests of this committee in this inquiry came with respect to the [deleted] situation.

On that occasion he told us that security had been breached that it was necessary to move the man from [deleted] immediately. The meeting concerned itself totally with those details. We did discuss the question of whether or not the company cooperation with the CIA would be exposed as a result of Watergate, of the Watergate investigation.

At the time he expressed satisfaction with the way that Mr. Mullen and I handled the press inquiry. It was not a major point of discussion.

Mr. NEDZI. Can you fix the time on that?

Mr. BENNETT. The time?

Mr. NEDZI. Yes.

Mr. BENNETT. That would be the meeting in probably August 1972. It might be 30 days either way, but that is what I now recall. I went to [deleted] to close the office in October 1972. Our man there had been removed at least 30 days before I left or, as I recall, longer than that.

In the spring of 1973, Mr. Eisenstadt started to talk about closing the [deleted] office. We had several meetings with him to discuss that. I remember the meeting in Mr. Mullen's apartment which produced the memo that got the most circulation in the newspapers. I remember that meeting very well. I remember my attitude going into it. I remember what I said. I remember what my purpose was. I could recount it.

Mr. NEDZI. Would you please elaborate?

Mr. BENNETT. Yes.

Mr. NEDZI. Go ahead.

Mr. BENNETT. Although we did not make any money out of our relationship with the CIA, being reimbursed simply for expenses, I am sure you recognize that it was of some value to us as a firm to be able to say to our clients that we had an office in Europe and that we had an office in Asia. This gave a little extra stature to the firm.

On occasion, Mr. Everett, while in [deleted] did perform services for some of our clients. The CIA was very happy to have him do that. It added to the legitimacy of his cover. We looked upon it as, perhaps,

compensation for the amount of time and effort we were putting into keeping the thing going at the time.

An office in [deleted] would have none of those advantages from our point of view. Consequently, we were anxious to keep the office in [deleted] as long as we could; also, during the 9 years that Mr. Everett was on our payroll, we formed a close personal bond with him. We felt that he was not being given the amount of personal consideration by the Agency that he deserved.

Now, Mr. Mullen and I met each other before the meeting with Mr. Eisenstadt. We said,

All right, if they are going to terminate [deleted] they are going to terminate it. There is nothing that we can do about it, but let's go in a little bit tough so that we can help to get the best deal for Jim that is possible.

We also wanted to make sure that we don't get hurt in the final settlement of the contract.

I frankly was concerned about the tax impact of writing off all of the assets that we carried on our books for which the CIA had paid which would obviously have to be disposed of at a loss at the time the offices were closed. I wanted to be sure that we came out whole. We did not want to get hurt.

Mr. Mullen and I went into that meeting with the predetermination that we would be a little bit aggressive in dealing with Eisenstadt. It was, if you will, a negotiating session. Mr. Eisenstadt said it was the opinion of the Agency that the relationship had to be terminated because of the publicity that had come to the firm as the result of Watergate. Mr. Mullen reminded Mr. Eisenstadt that was not our fault, that, indeed, the reason Howard had been in the company was because the CIA had recommended him.

Further, he reminded Eisenstadt that he had a letter of recommendation in the files from Richard Helms who had been head of the Agency.

Mr. NEDZI. Did he have such a letter?

Mr. BENNETT. Yes.

Mr. NEDZI. Is that available?

Mr. BENNETT. No. I turned it over to the Senate Watergate Committee.

Mr. NEDZI. It has been turned over?

Mr. BENNETT. That is my understanding, sir, either to the Jaworski people or to the committee.

Mr. NEDZI. Did you turn it over?

Mr. BENNETT. They came to our office. They Xeroxed files for an entire day. They took about a truckload of documents. I assume it was one of those documents. I did not personally hand the letter to the committee.

Mr. NEDZI. Mr. Price.

Mr. MELVIN PRICE. What kind of letter was it? Was it a character recommendation?

Mr. BENNETT. It was a character recommendation saying Mr. Hunt was a fine man. "We hope that you can find a place for him in your organization."

Mr. MELVIN PRICE. Thank you.

Mr. BENNETT. Yes.

Mr. NEDZI. To whom was it addressed?

Mr. BENNETT. To Mr. Mullen.

Mr. NEDZI. You have seen it?

Mr. BENNETT. Yes.

Mr. NEDZI. Are you absolutely certain that there was such a letter?

Mr. BENNETT. Unless my memory is playing tricks on me, yes, I am certain.

Mr. NEDZI. Mr. Wilson.

Mr. BOB WILSON. Where was the original of it? Xerox copies were taken. Where is the original?

Mr. BENNETT. I have looked for the letter. I have gone through the files to look for the letter. I cannot find it. There were so many things turned over to the prosecuting team in the initial stages and, subsequently, to the Watergate committee.

I cannot tell you at this time which group has it.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. Was the letter signed by Mr. Helms—well, the one signed by him, do you recall the date?

Mr. BENNETT. It was not addressed to me. It was addressed to Mr. Mullen.

Mr. BRAY. Do you recall anything about the date of the letter?

Mr. BENNETT. As I recall, and I am trying to reconstruct this, that the date of the letter would have been prior to Howard's employment with the firm.

Mr. BRAY. When was that?

Mr. BENNETT. May 1, 1970.

Mr. BRAY. Do you recall if the letter went into any detail about Mr. Hunt? I assume that it said that he had been a member of the CIA, or did it say that?

Mr. BENNETT. Mullen knew that Hunt had been a member of the CIA. It was simply a letter of recommendation of the standard kind that any employer gives to any employee that is looking for a job.

Mr. BRAY. As of the time he left the organization?

Mr. BENNETT. Yes.

Mr. BRAY. Is that it?

Mr. BENNETT. Yes.

Mr. BRAY. Go ahead.

Mr. BENNETT. It may be that my memory is playing tricks on me and I had it described to me without seeing it. I think that I do recall having seen a copy of the letter.

Mr. NEDZI. Are there any documents that were turned over to the Watergate Committee or to the prosecutor that are missing, Mr. Bennett?

Mr. BENNETT. I was not aware that this was missing. Well, yes, we have not received back any of the telephone records of which we turned over. We have not received back Howard's time sheets that he executed showing the time that he had worked on the accounts which were turned over.

Mr. NEDZI. Were any receipts given to you for these documents?

Mr. BENNETT. Yes.

Mr. NEDZI. How were the documents described?

Mr. BENNETT. They were subpoenaed under a blanket subpoena by the prosecutor in the first instance. The only receipt that I have is a copy of the subpoena. It said all documents relating to Howard Hunt.

Mr. NEDZI. They were not itemized?

Mr. BENNETT. No.

Mr. NEDZI. Mr. Hébert.

Mr. HÉBERT. You said that the letter of recommendation relating to Hunt was a typical letter of recommendation given by employers to former employees.

Mr. BENNETT. Yes.

Mr. HÉBERT. Is that correct?

Mr. BENNETT. Yes.

Mr. HÉBERT. Was this letter addressed to Mr. Mullen?

Mr. BENNETT. Yes.

Mr. HÉBERT. It was directly from the organization recommending this man for employment by that organization?

Mr. BENNETT. That is my understanding.

Mr. HÉBERT. It was not the regular form type. In other words, a regular form. I would hesitate very much to write a letter to you to say that a man is qualified and I would appreciate what you can do for him—well, on the contrary, I would not hesitate to say that this man has worked for me and whatever consideration can be given should be, and to do it. But this is a direct request, as I understand it, from the CIA head, Mr. Helms, to your organization to give this man a position.

Mr. BENNETT. I think to pin it down that tightly—

Mr. HÉBERT. It is important to do so.

Mr. BENNETT. To characterize it as a direct request, you better ask Mr. Mullen. I was not there. I did not receive the letter. I never talked to Mr. Helms about this matter. I never met him. I don't know the degree of pressure that the agency brought to bear on Mullen.

Mr. NEDZI. Was Mullen a part of the company at the time, Mr. Bennett, that these letters were turned over, or that these documents were turned over?

Mr. BENNETT. Yes.

Mr. NEDZI. Did he assist in the turning over of these documents in any way?

Mr. BENNETT. No.

Mr. NEDZI. Go ahead, Mr. Slatinshek.

Mr. SLATINSHEK. How did you become aware of the letter in the first instance? It was received by the company, presumably, a long time before you came aboard.

Mr. BENNETT. As Mr. Mullen and I were preparing for the meeting that I described and talked about our negotiating posture there, Mr. Mullen mentioned this to me.

Mr. SLATINSHEK. Did you ever see the letter?

Mr. BENNETT. In my memory I recall seeing it, but as you pin me down, I cannot be positive. I cannot construct the circumstances. I assume, yes, that it existed, that I had seen it. It may well be that my memory is playing tricks on me.

Mr. SLATINSHEK. Do you recall why Mr. Mullen would have mentioned this to you about the letter? What significance did he attach to the letter?

Mr. BENNETT. As I say, our posture vis-a-vis the agency as we went to the meeting was—well, they were trying to cancel the arrangement in [deleted]. We were trying to preserve it as long as possible. If it

had to be cancelled, we would obtain the best kind of settlement, both for ourselves in terms of our financial obligations, and Mr. Everett in terms of the personal situation.

Now, as we prepared to go into the meeting and review what it was that we had available to us to negotiate with, Mr. Mullen said to me the fact that Hunt came to work here is not our fault. "We did them a favor. Mr. Helms asked me to give Howard consideration. I have a letter of recommendation from him. If they want to say to us that we have blown the drill in the vernacular we will say no, that you did it." It was that kind of a posture going into the negotiations.

Mr. SLATINSHEK. Did Mr. Mullen suggest the hiring of Mr. Hunt was attributable to any involvement of CIA or was this sort of a personal thing from Helms to Mr. Mullen? In other words, you are negotiating the Mullen Co. vis-a-vis the CIA. You are exchanging it, if you will—that is, you are exchanging, if you will, equities, in this instance. Apparently Mr. Mullen thought that he had some sort of equity involving Hunt. Yet, everything that you have said indicates that Mr. Hunt had nothing to do with [deleted] or any foreign offices, that he had no CIA involvement. His employment with you was strictly legitimate, Mr. Bennett.

Mr. BENNETT. That was, and still is, my assumption.

Mr. SLATINSHEK. I don't comprehend what tradeoff Mr. Mullen would have regarding Hunt's employment.

Mr. BENNETT. We are not talking about that. We are talking about termination of the Mullen Co.'s relationship with the Agency. The question arises who is responsible for the condition requiring termination? The condition being the publicity the firm received as a result of Watergate. We wanted to be in the posture so that they would not blame us for having brought all of this upon us and being able to say to them—"that you encouraged us to hire Howard in the first place. You did not know that he was going to get into trouble. We did not know it. We are both blameless."

Now, at the time that was all that we wanted to have on the table, that we were blameless, as they were. We were not going to accuse them of having precipitated this. I never have and I have no evidence or inclination to do so.

Mr. NEDZI. Mr. Hébert.

Mr. HÉBERT. I am reading from the column of Jack Anderson. It says:

CIA front man Robert Bennett, son of veteran Senator Wallace Bennett (R-Utah) has conceded that he knew a White House burglary-bugging team was on the prowl in advance of the celebrated Watergate break-in.

A secret memorandum, written by his CIA case officer, states that the Senator's son withheld vital information from the authorities.

In an interview with my associate, Les Whitten, Bennett acknowledged he knew at least three days before the Watergate burglary that White House aide E. Howard Hunt and his second-story crew had plotted to break into the campaign headquarters of Senator George McGovern (D-S.D.) and bug the place.

What comment do you have to that?

Mr. BENNETT. I suppose that I should not make any comment about that.

Mr. HÉBERT. All right. But what I want to know is did you know about the break-in 3 days ahead of time?

Mr. BENNETT. I did not know.

Mr. HÉBERT. Did you acknowledge to this man this, Les Whitten, that you knew?

Mr. BENNETT. Just a moment.

Mr. NEDZI. Excuse me. As I understood this, he did not say break-in at Watergate. He said 3 days before he knew about the plans to break into the McGovern headquarters.

Mr. HÉBERT. That is right.

Mr. BENNETT. I will be more than happy to give you the circumstances that I told with regard to Les Whitten and which he assures me that the piece would be very sympathetic to me, that I would be pleased with it.

Mr. HÉBERT. Off the record.

Mr. NEDZI. Yes, off the record.

[Discussion off the record.]

Mr. NEDZI. Back on the record.

Please continue, Mr. Bennett.

Mr. BENNETT. Several days before the Watergate break-in occurred a young man named Tom Gregory asked to see me. Tom Gregory is a friend of my nephew. Howard Hunt had approached Tom and asked him if he would be willing to obtain or take a job at McGovern headquarters and talked to Howard about what went on at McGovern headquarters, and that if he was willing, Howard would pay Tom's expenses while he was living in Washington and working at McGovern headquarters.

My nephew came to me to say that Tom had developed moral uneasiness about this activity, because he felt I knew about politics and because we are both members of the same church, that I would understand his moral background and that I would be a good person for him to talk to about his concern.

I said, "Of course I would be happy to talk to you." I met him on Wednesday before the Watergate break-in that Friday night. I am not sure what date that would be.

Mr. HÉBERT. About the 14th of June.

Mr. BENNETT. Yes.

Mr. NEDZI. Go ahead.

Mr. BENNETT. I said, "Tommy, I understand your concern. I want to say to you that, in my view, if you take any money from McGovern, if you apply for, or hold any position of trust in the McGovern campaign, if you allow yourself to be put in a position where McGovern is depending upon you for anything significant, that you cannot morally discuss what you are doing with Howard Hunt and take money from him."

On the other hand, if you make it clear to the McGovern people that you are simply a college student wanting the chance to watch a Presidential campaign and you are willing to stuff envelopes and lick stamps in return for that privilege, the question who you talk to about experiences and who pays the expenses is your own business; that you are not doing anything all that wrong.

I said, "I think, Tommy, that you have to draw the moral line and not step beyond it." He said, "Brother Bennett, I have gone way beyond that. I have long since crossed that line." I said, "Under those circumstances, I think you ought to get out. I think that you ought

to quit." He said, "Do you want me to tell you what they want me to do?" I said, "No, Tommy, I don't. You have no need to confess everything to me unless it would make you feel better. Now, if you want to tell me something, I would be glad to listen to you, but I don't want to pry into everything that you have been doing on this assignment."

He said, "Well, they want to bug Frank Mankiewicz's office. They want me to help them." I said, "Tommy, you cannot do that. You have got to get out." He said, "I agree, but how?" I said, "Simply quit."

He said, "Mr. Hunt is a powerful man. He has a great deal of money. He has a great deal of influence. I am afraid of what might happen to me if I should quit." I said, "Come on, Tommy, you are exaggerating things. This is just Howard. He works for me. This is not a great, powerful important man. Simply tell him you are quitting. If there is any problem, let me know and I will handle it."

Now, I could see that the boy was still upset. I said to him, "Tommy, there is no need for you to ever see Howard again. Now, write him a letter telling him that you are quitting. You give me the letter and I can deliver it. I will handle any question that Howard may have about your quitting." He said, "Thank you very much. That relieves me. I will be glad to do that." I said, "Tommy, I will take care of Howard." He said, "I will write the letter. I will meet you tomorrow." He wrote the letter.

On Thursday I met him and he gave me the letter. I read it. I agreed with him that it was proper.

Mr. NEDZI. Where did you meet him?

Mr. BENNETT. I met him in Lafayette Park.

Mr. NEDZI. Why?

Mr. BENNETT. He was concerned that he might be under some surveillance. Frankly, at the time I did not feel, well, I felt that he was being a little paranoid. I did not take this all that seriously. This was a young man. It was his first experience in Presidential politics. I felt at the time that he was exaggerating the situation.

Now, seeing how concerned he was, my principal concern was to get him out of it and get him stabilized and back to school and feeling good again about himself and his conscience and his sense of moral values.

I read the letter. I said, "That is fine. That is just the way to do it." I said, "You relax. Don't go back to the McGovern headquarters. Don't go back to Howard. Don't take any more money from him. Don't have any more to do with him. Just get out." He said, "That is what I intend to do."

I took the letter to Howard's office. He was not there, but I left it on his desk. I waited for him to read it and come to my office, at which time I was prepared to say to him, "Howard, what is going on?" Howard never came to my office. He never discussed the letter with me.

The following day he broke into Watergate. I suppose, technically, and in a libel suit, Mr. Whitten would say that what he is saying is true, that I had knowledge that Howard had a feeling toward bugging or an intention of doing it prior to the bugging of Watergate.

Mr. NEDZI. Was any of this ever conveyed to anybody in the CIA?

Mr. BENNETT. I don't recall that I told this story to anybody in the CIA. I may have. I told the entire story to the Watergate prosecuting team.

Mr. NEDZI. Was any of this story told to the CIA prior to the Watergate break-in?

Mr. BENNETT. No.

Mr. NEDZI. Mr. Bob Wilson.

Mr. BOB WILSON. You said the boy told you that he had been asked to bug Mankiewicz's office or help bug it?

Mr. BENNETT. Yes.

Mr. BOB WILSON. There was a reference that they asked him to leave the door open. Would that be his role in Mankiewicz's office?

Mr. BENNETT. I talked to Tommy at great length since that time. I now know that is what they intended to have him do. He did not give me the details at the time of the meeting.

Mr. BOB WILSON. Thank you.

Mr. BENNETT. Yes.

Mr. NEDZI. Mr. Bray.

Mr. BRAY. Howard Hunt never came to see you after the letter, after it was put on his desk?

Mr. BENNETT. That is right.

Mr. BRAY. Have you discussed it since then?

Mr. BENNETT. Since then?

Mr. BRAY. Yes.

Mr. BENNETT. In the period after the break-in and before Howard's disappearance, he said that he had made a settlement with Tommy. I assumed that he meant a financial settlement, that he had seen Tommy one more time and had given him a severance check or a settlement check, that they had parted friends. I don't know if that, in fact, happened.

Mr. BRAY. What was Hunt's capacity besides, to your knowledge, at that time, aside from working for you? Well, none of these matters regarding Hunt had anything to do with his employment with you?

Mr. BENNETT. That is correct.

Mr. BRAY. Did you know that he had other employment?

Mr. BENNETT. Yes. I received a call from Chuck Colson in June of 1971, in which Chuck said that he had an assignment at the White House for Howard. He asked me if I would be willing to make Howard available to him on a part time basis. He said:

It would interfere somewhat with his duties for you. It would be an imposition on your time. I would appreciate it if you would accommodate yourself to this so that we at the White House, can make use of his talents.

I said, "Of course, Chuck, I would be happy to accommodate you." At that point, I changed Howard's employment relationship with the firm so, instead of being on a monthly salary, he went onto a daily per diem basis. The days that he worked for us, we paid him. The days that he worked for the White House, they paid him.

Mr. BRAY. Thank you.

Mr. BENNETT. Yes.

Mr. NEDZI. Mr. Fisher.

Mr. FISHER. When did Hunt go off your payroll permanently, Mr. Bennett?

Mr. BENNETT. On June 20, 1972.

Mr. FISHER. Thank you.

Mr. BENNETT. Yes, sir.

Mr. NEDZI. You say that you met with Howard Hunt subsequent to the break-in, at which time he advised you about Gregory being severed.

Mr. BENNETT. Yes.

Mr. NEDZI. What else did he tell you, or what else did you discuss at the time you met, and can you fix the date?

Mr. BENNETT. It was the 19th of June, a Monday. I remember the day very clearly. When I saw the story in the Sunday newspapers of the break-in at Watergate headquarters, the Democratic National Committee, I immediately thought about what Tommy had told me. I read the story very carefully, thinking this is the group that Tommy was talking about.

However, when I finished the story, I had not found a single name that I recognized. Howard's name was not there. I did not know any of the other men. I thought it was possible that this is not the group that Tommy was talking about at the time, and that this is, by coincidence, the same kind of activity, but not the same people.

Tommy came by the house that night with a group of other young people from church. I said, "Have you seen this morning's paper?" He said, "No. I have been out of town all day." I said, "I think that you ought to read it and I would like to talk to you about it after you have." He said, "All right, I will look at it." There were other people around. We never had the conversation.

Now, the next morning, a Monday, the 19th, when I got to work. I immediately went into Howard's office. I said, "Howard, what is going on?" He said, "I don't want to talk about it. Don't say anything because the girls will hear us," meaning the girls in the secretarial pool outside his door.

I said, "What happened?" Quite obviously, his response told me that he knew what had happened. He said,

No; don't talk about it. Everything is under control. Everything will be taken care of. Those people will say nothing. There will be no damage done to the campaign. I just don't want to talk about it.

That is what he said.

Now, I had a full schedule that day, that morning. I had appointments. I had people coming in. I did not have an opportunity to pursue the matter with Howard.

Naturally, I maintained an abiding curiosity and had planned to get back to Howard and pin him down to find out what he knew about this. At lunchtime we left the office at the same time. We rode on the elevator. He said,

I may not be back. I have to get my glasses fixed. The optometrist is out in Rockville. I will be gone a long time. I may or I may not get back to the office.

I said, "Fine."

When I got back from lunch, there were two FBI agents who said that they wanted to talk to Howard Hunt. They asked where he was. I said that he had gone to get his glasses fixed at a shop in Rockville. He said that he might or might not be back. They said, "All right. Will you please tell him when he comes back that we want to talk to him." They left their names. I said, "Of course."

Somewhat to my surprise, Howard did come back. At that point, I called him into my office. I said, "Howard, the FBI was here to talk to you." He said, "I don't need to talk to them. I have spoken to counsel. I have no requirement to talk to the FBI." He was obviously agitated. I said, "OK. I promised them that I would tell you to call them. I have done so. It is now your responsibility." He said, "Fine. You have done what you have to do, but I don't need to talk to them. They have nothing on me. I was nowhere near that place that night." He said that very emphatically. I remember it very clearly.

At the time I had no reason to disbelieve him. He proceeded to talk with some knowledge about the situation. I suppose that I could have felt that he was simply reflecting the conversations that he had heard at the White House over the weekend, being a consultant to the White House.

My own feeling was that Howard himself was, in fact, involved in spite of his denial. He told me that the purpose of the team was to photograph documents. He said that this was not the first time they had been in the Democratic National Committee, that they, the ubiquitous term, and he never gave me names, but that they were so titillated by what the team had found the first time, they had sent them back for more. That is what they were doing in there, he said, photographing documents.

He also said that he was nowhere near that place. He repeated that. Then he left my office. He then called me on the interoffice intercom. He said, "Would you step into my office," which I did. He was very, very nervous. He spoke in a very low tone. He said, "The White House wants me to get out." I don't remember if he said the country or out of town. I think that he said out of the country. He said that they wanted him to get out of the country until all of this blows over. He said, "I am leaving now. I don't want the girls to know that I have gone." His office had a door leading directly to the hallway so that he could go into the hallway and catch the elevator without the girls in the secretarial pool knowing this.

"John Dean," he said, "will be in touch with you with some money for my wife. Will you please see that she gets it?" He said, "I have to go. I am in a terrible hurry." Then he left.

I thought that the money that he was talking about was backpay that he was entitled to as a consultant to the President and that I would simply receive what would be his paycheck. I would give it to his wife.

Mr. MELVIN PRICE. What date was that?

Mr. BENNETT. The 19th of June.

Mr. MELVIN PRICE. Thank you.

Mr. BENNETT. Yes.

Mr. NEDZI. Please continue.

Mr. BENNETT. I went back to my office. My secretary called. She said that Mr. Liddy was on the phone and is looking for Mr. Hunt. She said, "I cannot find him, but that Mr. Liddy said that he will talk to you." I said, "All right." I took the call. Mr. Liddy said, "Where is Howard?" I said, "I assume he is home packing."

Now, at the time, Mr. Liddy, in my eyes, was a responsible official of the Committee to Re-Elect the President and an arm of the White House. Liddy said, "Can you get in touch with him?" I said, "Yes,

I think I can." He said, "The powers that be——" and I remember the phrase clearly because it is somewhat unusual, "the powers that be are to examine the entrails one more time. They decided that he should stay put. Now, call him and tell him to stay where he is until he gets further instructions."

Now, I called Howard at home. He was home and he was packing. I gave him Liddy's message. He said, "I wish that they would make up their minds." I thought, apparently, Howard was not in as much trouble as he thought that he was and that a cooler head somewhere has prevailed and said—"Don't create trouble for him."

The next morning, Tuesday morning, the stories hit the papers with Howard's name. My father called and asked what was going on. Instead of going to the office I went to my father's office. I discussed the whole situation with him, telling him everything that I knew about it. I expressed my then firm convictions, A, that Howard was involved and, B, that the White House was involved. There are public statements to the contrary notwithstanding.

We both agreed I had absolutely no proof of any of this. This was the conclusion that I had drawn from Howard's manner and from his comments. We simply counseled with each other. "What do I do?" My father said, "The minimal that you can do is suspend him immediately until he gives a satisfactory explanation." We decided that was also the maximum that I could do. I had no proof of any involvement beyond that.

Mr. NEDZI. Did you consider going to the FBI?

Mr. BENNETT. Yes; but I did not have anything to say to the FBI.

Mr. NEDZI. Are you kidding?

Mr. BENNETT. Now I realize that I did, but at the time I did not feel that I did.

Mr. NEDZI. Not at the time?

Mr. BENNETT. No.

Mr. NEDZI. Are you serious?

Mr. BENNETT. I am perfectly serious. I know far more about conspiracy law now than I did at the time. I am not a lawyer. I had never had any experience like this.

Mr. NEDZI. Is your father a lawyer?

Mr. BENNETT. No. I could not, at the time, put the pieces together in such a way as they added up to anything.

Mr. NEDZI. Did you consider obtaining a lawyer?

Mr. BENNETT. At a point, and I cannot give the exact date, but at a point shortly after this, I did consult a lawyer. I told him all of this. I said "Do I have a responsibility to come forward? I kind of think that I do. I am convinced that Howard is guilty. I am convinced that the White House is lying. I am convinced that there is an involvement here far, far deeper than anything that anybody is saying." I told him the whole story. He said,

If I had you on the stand on the basis of the story you just told, I could tear you to shreds under cross-examination. You don't have anything in a firm legal sense. It is hearsay. It is all surmise. My advice is to cooperate fully with the prosecutor as they proceed to investigate this case.

That is exactly what I did.

Mr. NEDZI. As one active in the Mormon Church, did you feel a moral obligation to convey this information to anybody, say, of authority?

Mr. BENNETT. That is why I felt that I had to talk to the lawyer to determine my obligation.

Mr. NEDZI. I am talking about a moral obligation.

Mr. BENNETT. It is the same thing.

Mr. NEDZI. I think that there is a difference. I think, on occasion, there are certain things that the law does not require us to do, but our moral scruples require this.

Mr. BENNETT. That is right. My scruples told me that I should do something about what I knew.

Mr. NEDZI. Why didn't you do it?

Mr. BENNETT. I talked to a lawyer. I felt very strongly. I felt that I must do something about this.

Before I go forward, I want to know the legal parameters of the grounds on which I will operate. Had the lawyer not said what he did, I probably would have said more to the press. An investigation was going forward. I was cooperating fully. I was interviewed by the FBI. I told them everything that I knew at the time.

Mr. NEDZI. Could you please fix the time on this, Mr. Bennett?

Mr. BENNETT. My first interview with Mr. Silbert took place prior to the 10th of July meeting with Lukoskie.

Mr. NEDZI. How soon after the 19th did that take place, Mr. Bennett?

Mr. BENNETT. I cannot say precisely. I would think that it was after the Fourth of July holiday.

Mr. FISHER. Mr. Chairman.

Mr. NEDZI. Yes, Mr. Fisher.

Mr. FISHER. This is very interesting.

Now, you are talking, if I get the picture correctly, about a lot of things happening in a very limited period of time in a very few days. Things were unfolding pretty fast, but they were not being correlated very well until the clouds disappeared and the facts became more apparent.

Mr. BENNETT. Yes.

Mr. FISHER. Is that right?

Mr. BENNETT. Yes.

Mr. FISHER. Hunt never made any confession to you. He pretended total innocence.

Mr. BENNETT. Yes; that is right.

Mr. FISHER. You had nothing to report to anybody as far as implicating him other than simply to tell about his conversation with you and the money that you were to send to him from the White House?

Mr. BENNETT. Yes.

Mr. NEDZI. If my recollection of what Mr. Bennett said is right, it is that Hunt told him on the 19th they had been into Watergate and were interested in some of the things that had taken place. They went into Watergate a second time. That, to me, is evidence of a crime.

Mr. FISHER. Did Mr. Hunt tell you that?

Mr. BENNETT. Hunt did not say that he had been, but he said that he knew that somebody had—that this group of people that were arrested—well, he was aware of a crime having been committed.

Now, what I now know about the conspiracy laws, I would immediately react to that and now I would go to the FBI or the district attorney.

Mr. FISHER. That was a hearsay report that he gave about somebody else. Did he identify the others?

Mr. BENNETT. No. He never gave me any names.

Mr. FISHER. He did not implicate himself?

Mr. BENNETT. He indicated at the time that he was not involved.

Mr. FISHER. The FBI was looking for him. I assume that you assumed that they would eventually reach him and get the detailed information from him.

Mr. BENNETT. I was perplexed as to the degree of his involvement. I was satisfied in my own mind that he was involved and probably guilty.

Mr. FISHER. I would think so.

Mr. BENNETT. The White House issued statement very strongly to the contrary in this period. I went to my friends in the White House to say—

That you are lying. I don't think that you personally are lying, but I think the institution, if you will, is lying. Somebody is misleading the President. As a good Republican, I don't like this.

I laid this whole thing out to the degree that I knew.

Mr. FISHER. To whom?

Mr. BENNETT. To Dick Cook and Tom Korologos, both of whom were absolutely shocked. They said, "You have got to tell this to MacGregor." I said,

I have been trying to get hold of MacGregor, but every time he issues a statement saying none of us are involved, I get upset because I know you are involved.

They said, "You don't know. You just suspect it." I told them why. I told them why it was that I felt this way. I said,

I have told all this to the district attorney. I think if you don't temper your public statements pretty fast, you will have egg all over your faces when the trial comes about.

I had some very long and very tough conversations with friends on, friends of mine, on the White House staff to that effect.

This may be far afield, but I really did not discuss any of this with the CIA. I felt that was a separate problem. I did say to one member of the White House staff, a very close friend named Des Barker, who kept saying that—

You are too accessible to the press. They come around. They ask you questions and you answer them. You should not. You are helping to keep the story alive. If you shut up, the whole thing will die down and blow away.

Now, I said that,

I cannot shut up for two reasons. No. 1, is the Freedom of Information Act, because of the fact that Howard worked on the contract and, No. 2, our firm has a relationship with the CIA. If the press gets the feeling that I have anything to hide, they are going to go over every inch of this firm with a fine tooth comb and discover the relationship to the detriment of the U.S. Government. I do not want that to happen. I am perfectly willing to be personally misquoted, which I was, or misinterpreted.

It is inevitable in this situation.

Mr. NEDZI. You did misrepresent some things to the press, Mr. Bennett.

Mr. BENNETT. As to the CIA matter, yes. I felt that I was under a contractual obligation to do that. Otherwise, I never misled them.

Mr. NEDZI. Let us explore the contractual relationship now. In what form does that contract take place?

Mr. BENNETT. It is a written contract.

Mr. NEDZI. What clause in the contract leads you to the conclusion that you were under an obligation to misrepresent?

Mr. BENNETT. There is a specific paragraph that says that the firm will never divulge in any way the nature of the agreement.

Mr. NEDZI. Is that the same as a contractual obligation to misrepresent?

Mr. BENNETT. I interpret it as such. Now, as long as I was not under oath, that is also to be considered. Mr. Mullen specifically asked the question when the reporter from Time came in, "May we tell Time about this?" He was told, "No, you may not. Your contract requires you to deny it." That is what Mr. Mullen reported to me. I have never been specifically told that, but Mr. Lukoskie, in the first interview, encouraged me as to the denial and Mr. Mullen reported this. I always assumed this was part of the contract, that we were under the same obligations that a retired CIA officer would be under, that is, not to discuss any aspect of the relationship.

Mr. NEDZI. Can you tell us more precisely what Mr. Lukoskie said that you define as encouragement?

Mr. BENNETT. When I reported what I had done and discussed the specific stories written, as a result his response was that a number of people out at Langley thought that you had been briefed, that you handled it so well they thought that you had been briefed and given instructions. I said, "No, I have not heard from anybody. I did it on my own." He said, "They are very pleased with the way that you handled it."

Consequently, I continued to do that,

Mr. NEDZI. Did he say anything as to how you would handle things in the future?

Mr. BENNETT. Not specifically.

Mr. NEDZI. Mr. Bennett, let me ask you this. We were talking about the letter that you said you saw, and then you were not sure that you saw it, the one to recommend Mr. Hunt for employment.

Mr. BENNETT. Yes.

Mr. NEDZI. Can you dig real deep in your mind and tell us whether you saw the letter?

Mr. BENNETT. I cannot go beyond what I have said. I think I have seen it. Now, in forcing me toward this recollection, I must admit that there is a possibility that I have not.

Mr. NEDZI. Have you any reason to doubt a statement that Mr. Mullen made, and I will read it to you, in response to a question asked of him.

Now, the question was, "Did you have any discussions with Richard Helms concerning the hiring of him," the "him" referring to Mr. Hunt? Mr. Mullen said, "No. I think it was O'Malley." O'Malley made quite a point that the Director was eager to help place Howard. I said at one time that I had a letter of Helms but when I actually looked into it, it was not a letter to me. It was to some other corporation recommending Howard. "You did not have a letter yourself," was the question. The answer was, "No, I didn't. At one time I thought I did." I told the Agency that I did. When I looked into it and refreshed my

files, it was a letter that Helms had written to, as I recall, some chemical company in the Middle West, somebody else. It was a reference for Howard. No, I cannot say the Agency leaned on me in any way to hire him. I am the one that did it.

Now, Mr. Bennett, do you have any reason to doubt that statement?

Mr. BENNETT. No.

Mr. NEDZI. Does this conflict with anything that Mr. Mullen told you?

Mr. BENNETT. I am a little surprised by it. I had always thought from Bob's discussion with me, that they had leaned on him a little. I am in no position at this time to contradict him. He is my only source of information.

Mr. NEDZI. Can you think of any reason why the tone of his comments to you should be different than the statement just read?

Mr. BENNETT. No.

Mr. NEDZI. Was the tone of his comment any different than what I just read to you?

Mr. BENNETT. I am a little surprised by it. I had always thought that the Agency did, in fact, lean on Bob a little harder than he implies there.

Mr. NEDZI. Did you have that impression from any circumstances other than Mr. Mullen's own comments to you, Mr. Bennett?

Mr. BENNETT. I will tell you where the impression comes from.

Mr. NEDZI. Yes.

Mr. BENNETT. At one point, at the point where I assumed control of the firm, Howard came to me for a very substantial raise, a raise that would have put his compensation higher than mine. When I said, "Howard, I am not prepared to deal with this, and I understood from Bob Mullen when I bought the firm that you were happy with your present salary. This puts a whole new picture on the profit structure of the firm, particularly if the costs will go up this high." Howard said, "Well, I am caught in a bind here. I go see Mullen and Mullen says, 'Work it out with Mr. Bennett.' Then I come to see you and you say that you are bound by the agreement you made with Mr. Mullen."

Now, he was very unhappy about this. I went to Bob. I said, "I have got to understand exactly what your agreement with Howard was so that he does not take advantage of my ignorance and get me to give him something that he agreed not to press for when he came on board. Now, what was the salary arrangement when he came on board?" That is the context in which this conversation took place.

In that context, Bob said to me. "He was perfectly willing to accept \$24,000 a year, which was his salary when he came on board, because he said that he was going to have his CIA retirement over and above that. His total compensation would be \$40,000 a year or whatever. He was never quite sure what his compensation was. He said that when the CIA first approached me about him and said that they were trying to get him placed, that he was a retiree and would I take him? I said, "Yes, I will be happy to. I will put him on the payroll while he looks for a job. Then you can pay me his salary, the same way that you are paying Mr. Everett's salary and the man in [deleted]. In other words, you compensate us for him. He will use this as his base of operation while looking for a job."

The Agency said, "Absolutely not. We are not going to compensate you for what you pay him. If he comes on board for you, in that case,

you have got to pay him out of your legitimate business." Bob said, "All that I can afford is \$24,000." He said at the time that Howard felt fine about it. The context of the conversation was on salary. I drew the assumption that the agency was very anxious to place Howard. That does not necessarily conflict with what you just read.

Mr. NEDZI. Wasn't there some understanding between Mullen and Hunt, to your knowledge, with respect to Mr. Hunt buying into the company?

Mr. BENNETT. At one time there were discussions along that line. Now, while I was at the Department of Transportation, I had made no final commitment to purchase the Mullen Co. It was in the discussion stage.

Now, Bob called me up one day. He said, "I want you to meet Howard Hunt and Doug Caddy." He said, "Hunt is working on the BEH thing and Caddy is here as an employee of General Foods. Caddy has decided that he does not want to spend his life working for General Foods. He likes this business. He would like to buy it."

Mr. NEDZI. When was this?

Mr. BENNETT. The summer of 1970.

Mr. NEDZI. 1970?

Mr. BENNETT. Yes.

Mr. NEDZI. Go ahead.

Mr. BENNETT. He said, "Howard and Doug wanted to buy the firm." I told them that I had made a tentative commitment to sell it to you. "They want to meet you."

Now, the four of us, Bennett, Hunt, Mullen, and Caddy, we had lunch, during which Hunt and Caddy pressed me for an agreement for a three-way purchase. We would each own a third of the business. I frankly had no interest in such an arrangement. I said that we would stay in touch. I did not turn it down cold. I said, "Let us talk about it. I don't know how much longer I will be at DOT. I will have to stay throughout the balance of this Congress. We have the SST and the rail passenger bill to handle. I cannot walk out on Secretary Volpe at this time."

Mr. NEDZI. Do you know whether any of this type of conversation occurred at the time Hunt was negotiating to be hired by Mullen?

Mr. BENNETT. It was after he came on the payroll.

Mr. NEDZI. After?

Mr. BENNETT. Yes.

Mr. NEDZI. How long after?

Mr. BENNETT. This was in the summer, I would say in July or August of 1970. He joined Mullen on the 1st of May.

Mr. NEDZI. Two or 3 months afterwards.

Mr. BENNETT. Yes.

Mr. NEDZI. Do you have any knowledge or any reason to believe that at any time during Hunt's employment by the Mullen Co., he was under any kind of orders from the CIA?

Mr. BENNETT. No, sir.

Mr. NEDZI. No incident comes to your mind that created any kind of suspicion on your part that he may have been under orders of the CIA?

Mr. BENNETT. No, sir.

Mr. NEDZI. One of the problems that has emerged in the press is the question of the leaks to the media about Mr. Colson. I am sure that you are aware of the charges.

Mr. BENNETT. I am very much aware of this.

Mr. NEDZI. As you are probably also aware, Mr. Eisenstadt's memorandum, in it, there is a statement that, well, which is as follows:

Mr. Bennett rather proudly related that he is responsible for the article "Whispers About Colson" in the March 5, 1978, issue of Newsweek.

Would you comment on that statement?

Mr. BENNETT. I would be glad to.

Mr. NEDZI. Go ahead, please.

Mr. BENNETT. Please go back to my description of the circumstances of that meeting and the fact that Mr. Mullen and I viewed it as a negotiating session in which we were trying to establish our position as being, (a) not responsible for Howard having come to the firm and bringing the embarrassment upon it, and, (b) not being responsible for any of the leaks that had hit the press. Therefore, we should not be penalized in any termination of the arrangement. We were not guilty of any difficulty.

Now, in that context, Mr. Eisenstadt expressed great concern that the cover was going to be blown because of the press attention being paid to the Mullen Co. I responded. I, at the time, said, "I have gone through the most intense press scrutiny for the past year and a half and never once has the cover been blown."

Now, to impress the point upon him, I enumerated some of the more significant interviews to which I had been a party. Bob Woodward of the Washington Post interviewed me at great length on numbers, on numerous occasions. I have told Woodward everything I know about the *Watergate* case, except the Mullen Co.'s tie to the CIA. I never mentioned that to him. It has never appeared in any Washington Post story. I pointed this out to Mr. Eisenstadt. I said, "As a result, I am a good friend of Woodward."

Mr. NEDZI. Why did you feel compelled to tell Woodward everything that you knew about the *Watergate* matter?

Mr. BENNETT. We were talking about moral scruples earlier, sir. I felt that it was only through the press that the whole story could come out, having been rebuffed in an attempt to get the White House to do what I felt was the right thing, and seeing that the investigation of the district attorney and the U.S. attorney's office would produce a conviction only of the seven burglars; then I was satisfied there was far more to this and, if it was going to come out, it would be because of continued pressure from the press. I had, quite frankly, what I assumed to be some of the same motivations.

Mr. FISHER. I assume what you told him is about what you have told us today?

Mr. BENNETT. That is right.

Mr. NEDZI. Please continue.

Mr. BENNETT. I discussed Woodward with him. I told him I considered myself a friend of Woodward; that as a result of our conversation, Woodward had some stories.

Now, I made the point that the Mullen Co. did not appear in those stories in any way to compromise with the CIA. I said I had been inter-

viewed by Newsweek at great detail in their probe of Mr. Colson. This resulted in the story, "Whispers About Colson."

I was responsible for some of the quotes in that story, as such.

Mr. NEDZI. Which quotes?

Mr. BENNETT. I would have to have the story in front of me to identify it. I did not initiate the story. I did not leak anything to Newsweek with respect to the story. I did not tell Newsweek anything about Mr. Colson that was not true. I am not responsible for any misleading or false statements about Mr. Colson in Newsweek or any place else.

I was told at the time by the reporter that interviewed me that I was one of about a dozen people interviewed for the story.

Mr. NEDZI. I think, for the record, we should have your analysis of what you believe you were responsible for in the article.

Mr. BENNETT. I will do that now.

Mr. NEDZI. Go ahead.

Mr. BENNETT. In the second paragraph, and I will read it.

Though his name has flickered at the edges of the story almost from the start, Colson, 41, has acknowledged little more than that he promoted a White House job for star waterbugger E. Howard Hunt in 1971. His avowed purpose was to plug news leaks within the administration, not to spy on the opposition. But well-wired Republican sources told Newsweek's Nicholas Horrocks last week that it was Colson who directed Hunt that year to work up a dossier on Senator Edward M. Kennedy, with special attention to the 1969 Chappaquiddick tragedy. That spring, these sources said, Colson told Hunt that he was in position to plant a woman in a sensitive secretarial job in Senator Edmund Muskie's campaign for the Democratic nomination. His asserted marching order to Hunt: find "the right girl" for the job.

Now, that is me, I did tell Horrocks that Colson had given Hunt that assignment.

Mr. NEDZI. How did you know that?

Mr. BENNETT. I was present when Colson asked Hunt to find the girl to place in the Muskie campaign. Colson asked me to help in that effort. I did not.

Mr. NEDZI. Where did that meeting take place?

Mr. BENNETT. In Colson's office in the White House.

Mr. NEDZI. When did you meet with Colson?

Mr. BENNETT. I would place it in February or March 1971.

Mr. NEDZI. Did you have any other meetings with him at the White House or any place else?

Mr. BENNETT. I was in Chuck's office fairly often. I have known Chuck since 1968. I did work for him while I was at the Department of Transportation. I talked to him about problems relating to my clients.

Mr. NEDZI. What kind of problems?

Mr. BENNETT. The question of whom to see in the executive branch when there were any problems with Treasury or who he advised that I should talk with in the Treasury Department. This concerned the Hughes Tool Company.

Mr. NEDZI. You asked Colson to direct you to somebody that you could see?

Mr. BENNETT. Yes.

Mr. NEDZI. To whom did he direct you?

Mr. BENNETT. He said that he would take care of the matter himself, which he did not. I subsequently made an appointment entirely on my own and without his help, with Charles Walker.

Mr. NEDZI. Did you see Colson for any other purpose?

Mr. BENNETT. Colson, on one actual occasion, asked me to come to his office and introduced me to Tom Evans of the law firm of Mudge & Rose & Alexander and so on.

As a result of the conversations that I had with Tom, I became involved in establishing committees to whom contributors to the Republican campaign could make contributions and avoid the gift tax. Unfortunately, the committee chose to use the finance committee to reelect the President. They used the committees I formed as those to receive contributions from the milk producers. I had a lot of publicity about that. I disbanded all of those committees, telling the finance committee they should find somebody else to handle this activity.

Mr. NEDZI. Did you have any meetings with Colson concerning other companies or organizations?

Mr. BENNETT. I am sure that I did but I cannot recall them specifically.

Mr. NEDZI. Did you ever discuss with Mr. Colson the role of the CIA in the Watergate affair?

Mr. BENNETT. No.

Mr. NEDZI. Did you ever discuss the CIA in any fashion, Mr. Bennett?

Mr. BENNETT. No.

Mr. NEDZI. Did you ever discuss Hunt with Mr. Colson, or his employment with the CIA?

Mr. BENNETT. I had the discussion with Colson that I described about Hunt working for the White House. I did discuss with him Hunt's continuing pressure on me for more money. He said that this will help relieve the pressure because he would pay it.

Mr. NEDZI. Why did you discuss the pressure on you about Hunt for more money?

Mr. BENNETT. Because it was on my mind at the time that he called. I wanted to know if the part time job for Hunt was a paying job or volunteer. I have overlooked, perhaps, the most sensational conversation that I had with Chuck.

Mr. NEDZI. Go ahead.

Mr. BENNETT. This was by telephone. This was with respect to Dita Beard. I would be happy to go into that, but perhaps I ought to go through the article first.

Mr. NEDZI. Let me ask you about this particular point, because you said that you were at a meeting when Mr. Hunt was asked to plant a woman in a sensitive secretarial job in Senator Muskie's office.

Mr. BENNETT. No. Hunt and I were both asked to recruit the woman. Colson had already prepared the plant.

Mr. NEDZI. What was your response to Mr. Colson at that time?

Mr. BENNETT. To him?

Mr. NEDZI. Yes.

Mr. BENNETT. I am disappointed in my response. My response was that I will look around. Then I walked out of the office. I did nothing. I should have told him that I would not have anything to do with it.

Mr. NEDZI. Please continue.

Mr. BENNETT. The next paragraph which mentioned Tommy Gregory, there, Mr. Horrock discussed that. But that which is quoted here is not from me because the Gregory story was public at the time,

because Tommy had appeared as a witness in the trial. The quote, "But Gregory, according to one Federal investigator, just didn't seem to get very juicy stuff." That is not my particular quote.

"An around-the-clock McGovern watch—" that which is described in the next paragraph, well, I learned about this upon reading the article. That entire paragraph comes from a source other than me.

Mr. NEDZI. Go on.

Mr. BENNETT. The next paragraph is the same. It is on the same subject as the one before it. There is nothing in there that came from me.

The next paragraph relating to the Dita Beard matter reads: "Hot ———. Colson is said to have exclaimed—" That does come from me. I remember that is what he said. I am not sure that he did, but that is my recollection. If he didn't say exactly those words, he said something very much like it.

Now, Colson saying that he dispatched Hunt to Mrs. Beard; I did not know that he had dispatched Hunt to visit Mrs. Beard in her hospital room in Denver until I read it in the paper. That particular information, they are taking this from the Washington Post.

As to Hunt's "alias [Edward Hamilton], a pair of dark glasses and a slightly askew dime store red wig," that rhetoric, none is from me.

The final paragraph about the prospects:

Two likely prospects have turned down White House staff jobs because of Watergate, and a third person, a Nixon appointee to a regulatory agency, is quitting largely in discouragement over its handling.

That is not from me. I had no knowledge of that.

Mr. FISHER. Let me test my memory.

Mr. BENNETT. Yes.

Mr. FISHER. Now, as I recall, Colson's contention was that the CIA planted this information in Newsweek and probably in other publications, such as false information about him, to damage him and his public image.

Now, do you know anything about the CIA planting anything of that kind about Colson?

Mr. BENNETT. No, sir, I don't. I have no knowledge of anything relating to that.

Mr. NEDZI. Off the record.

[Discussion off the record.]

Mr. NEDZI. Back on the record.

Mr. BENNETT. That identifies the quotes that are from me. Everything that is in here that I said Colson did, he actually did.

Mr. NEDZI. There is a reference to Colson directing Hunt to work up a dossier on Senator Kennedy. According to the article, "With special attention to the 1969 Chappaquiddick tragedy." You did not comment on that.

Mr. BENNETT. I am sorry. I thought I did.

Mr. NEDZI. Go ahead.

Mr. BENNETT. I am probably responsible for that statement being in there because that is what Howard told me. Howard told me when he embarked on his investigation of Kennedy and Chappaquiddick, that he did so at Colson's instructions.

Now, in a subsequent phone call when Chuck and I discussed it, this article, in which I told Chuck I was interviewed and was responsible

for some of the quotes, and Chuck said that he understood from Howard that it was my idea that he investigate Kennedy. I said, "Chuck, I understood from Howard that it was your idea that he investigate Kennedy. Together, we came to the conclusion that Howard had whipsawed the two of us.

Mr. NEDZI. I don't understand. Suppose it had been Chuck's idea, why would you be involved?

Mr. BENNETT. Howard came to me to say that it was Chuck's idea that he engage in an investigation of Senator Kennedy and did I know of any place where he might go to conduct such an investigation? I said:

Yes. As a matter of fact, having worked for Secretary Volpe, I know a lot of people from Massachusetts, one of whom has always been disappointed that nobody ever asked him everything that he knows about the Kennedy's. He used to work for me at DOT. He was always telling me that he knew all kinds of things about the Kennedys, that he used to be the night manager in a hotel where the Kennedys used to come. He said he knew all about the Kennedys and that you might get something by interviewing him.

I gave Howard his name. Howard called him. Subsequently, he interviewed him. It was Cliff Demotte. I did not feel, and still don't feel that there is anything illegal or improper about what I did. I was under the impression that Howard was pursuing the investigation at the prodding of Mr. Colson.

Now, Mr. Colson, in the telephone conversation, suggested to me that he had not thought that there was really anything worthwhile, but that Howard had come to him to say that "Bennett has a red hot contact up there and we ought to interview him. We ought to look into it."

Mr. NEDZI. Do you recall when that conversation took place, the one about Chappaquiddick?

Mr. BENNETT. It was shortly after Howard went onto the White House payroll. It was one of his first assignments. That would place it in July or August of 1971.

Mr. NEDZI. Was it subsequent to the meeting that you had with Colson in which he asked you to include a secretary, Mr. Bennett?

Mr. BENNETT. Yes.

Mr. NEDZI. Go head.

Mr. BENNETT. He asked both Howard and me. That meeting took place before Howard was on the White House payroll. Chuck called the two of us over to sit in his office as friends, not as an employee as Howard subsequently became.

Mr. NEDZI. Did Howard Hunt consult with you at all on other matters in connection with the White House responsibility, Mr. Bennett?

Mr. BENNETT. Not with me. We would have casual conversations in the office about "How is the campaign going? What are you doing? Oh, I am doing fine, or I have got problems." It was nothing substantive.

Mr. NEDZI. Did he talk to you about Dita Beard?

Mr. BENNETT. I suppose that this is the time to go into the Dita Beard situation in detail.

If I may, I would like to place it in context. Those of us connected with the Hughes organization had just gone through the Clifford Irving experience.

Mr. NEDZI. How were you connected with that?

Mr. BENNETT. My company is retained by Hughes to represent them in Washington.

Now, for a period of several months, the entire world believed in the genuineness of the Irving biography, and those of us insisting that it was a fraud and a forgery, we were laughed at. Now it is a different thing but those were rather strenuous and interesting months to live through.

I received a phone call from somebody in the Hughes organization. He said to me in the course of the conversation, "Hey, you know that problem that Kleindienst is having being confirmed because of the Dita Beard memo?" I said, "Yes." He said, "How would you like to know that that memo is also a forgery?"

Mr. NEDZI. Who was the call from?

Mr. BENNETT. It was from Bill Gay, an official of the Hughes organization. I said, "That is fascinating. How do you know that?" He said, "I found out today that it is forged and nobody believes that any more than they believed us about Irving."

We talked about it. It was the principal item in the news of the day and the subject of conversation.

Now, the next day at work I said to Howard, "Does the White House know that the Dita Beard memo is a forgery, that Anderson's version of it is a forgery?" He said, "No. How do you know?" I said, "I had a call from Bill last night in which he said that he had found this out."

Now, within 10 minutes of the time that I told Howard this I got the telephone call from Colson. He said, "What is this about the Dita Beard memo being forged?" I repeated to him what I had been told the day before. That is when he said, "Hot damn. I am the only one around here that believed from the beginning that it was a forgery. I could not get anybody to pay attention to that theory. Now we have got it. I know your sources of information. They are good. This is solid."

I found that interesting because I did not know my sources of information. I had not questioned Bill that close. I did not realize that it would be that big a thing. I assumed anything Bill had picked up, that the White House already knew this. I did my duty. I passed on a piece of information. Now they could proceed to act upon it.

A day or so later Chuck called. He said, "This is very delicate. We, in the White House, cannot be involved in exposing this. This has got to be an independent operation as far as Dita herself is concerned. Will you call her lawyer, David Fleming. He needs help. He does not understand Washington. He does not understand the politics. We cannot advise him because we cannot get in bad with ITT. However, you can do this. Would you do this as a favor?" I said "Yes."

I called David Fleming. He said, "Yes, it is a forgery." He gave me all kinds of information to substantiate the claim that it was a forgery. He read me a statement that he had prepared stating it was a forgery. He said, "Senator Scott is going to issue this statement today or tomorrow." I said, "Pardon me, but the statement does not really do anything for Mr. Kleindienst. It is a lawyer's statement. It is probably good from Dita Beard's point of view. If you want impact on the controversy, you will have to reword it." He said, "Could you help me do that?" I said "Sure."

Now, I made suggestions as to how the statement should be altered. He said, "That sounds fine to me, but it is Dita Beard's statement. She has to approve it. Call Dita." I talked to her and read the statement as I had altered it. She kept saying, "It is not strong enough, to call the SOB's what they are." She was very, very emphatic about denouncing this. I said it has to be printed in the newspaper. You have to leave it the way it is." She finally agreed to issue the statement. I took a copy to Senator Scott's office, as Colson said to do. I turned it over to Bill Hildebrand. He gave it to Scott. Scott went on television and read it. That is the sum and substance of my involvement in the Dita Beard matter.

Mr. NEDZI. Were these services performed on a voluntary basis or were you compensated?

Mr. BENNETT. Voluntary.

Mr. FISHER. Could we go off the record?

Mr. NEDZI. Off the record.

[Discussion off the record.]

Mr. NEDZI. Back on the record.

Mr. FISHER. You are an innocent victim. You happened to hire this man and you became involved in that respect. I would be interested to know what effect during this time period that has occurred since the Watergate break-in, as to what effect this has had on your public relations business?

Mr. BENNETT. It has destroyed it. The Mullen Co. does not exist anymore. All of the clients that we had at the time of the break-in, they are gone with one exception. That is the Hughes organization. They have stood by me through the whole situation. They have demanded some pretty close explanations of some of these situations. Upon receiving them, they have said, "All right. We will stand with you." As to the other clients, some of them, I am sure, left for legitimate reasons. This always happens. But nobody has come forward to replace them. There are some clients that I know that have discharged the firm simply because of the publicity that is connected with Watergate. As of the moment, the Mullen Co. has no clients.

Mr. FISHER. That is an unfortunate result of this innocent involvement.

Mr. BENNETT. I agree, sir.

Mr. FISHER. Thank you.

Mr. BENNETT. Yes.

Mr. NEDZI. At one point Mr. Eisenstadt, in his memo, makes reference to a statement allegedly made by you, " * * * that they take care of Hunt and you take care of Ervin." Would you comment on that statement?

Mr. BENNETT. That is an accurate statement. I am not sure the way it appeared in the paper is accurate. There have been other phrases.

Mr. NEDZI. The statement in the memorandum was, "His conclusion then was that he could handle the Ervin committee if the Agency can handle Howard Hunt."

Mr. BENNETT. Yes, that is accurate. The reference to the newspaper to my father was not accurate. We are talking about a coverup, Mr. Chairman. We are talking about a coverup of the Mullen Co.'s relationship with the CIA overseas. As I explained this morning, I have consistently attempted, prior to the time that it was blown by CBS News, to keep this relationship dark. I was convinced that the Ervin

committee would not expose that relationship. I was not convinced that Howard would—that Howard might, very easily, get on the stand and, for some purpose connected with his own defense, expose Mr. Everett in [deleted.]

I was saying to the Agency that I am satisfied, both because of my judgment of the kind of men the Ervin committee consisted of, my experience in dealing with the staff, and my conviction that there is nothing dishonorable or improper that we have done here. I am satisfied that the Ervin committee can be handled in terms of covering up the relationship between the Mullen Co. and the CIA. I said, "I cannot handle Howard. That is your responsibility." That is the message that I was giving to the CIA.

Mr. NEDZI. Why would you say that it was your responsibility?

Mr. BENNETT. Because I was the one being questioned. When I said I, Mr. Chairman, I meant me and Mr. Bob Mullen. We could handle the committee in terms of keeping this thing from going public.

Mr. NEDZI. How did you propose to handle it?

Mr. BENNETT. In the same way that I handled the prosecutor, by being open and straight forward. I did do one other thing that is in the papers and the memo that got a lot of publicity, Mr. Chairman.

Mr. NEDZI. What was that?

Mr. BENNETT. Well, let me say this. A friend came to me. He said, "Is there anything that I can do for you?" This is David McConnell, an attorney from Charlotte, N.C. He described how close he was to Mr. Sam Ervin, indicating he had been offered the position of chief counsel of the Ervin committee. I said, "I don't need anything from you except it would be nice if you had an opportunity to assure Sam Ervin that I am an honest man. I would appreciate it if you would do that much. Once Ervin is convinced that I am honest, I have no concern about my ability to tell the story and relate the facts. I have nothing to hide or be ashamed of." Dave said that he would be happy to do that.

He reported back to me on the occasion that he had talked to Ervin. He told him that Bob Bennett is an honest man. To my knowledge, that is the sum and substance of Mr. McConnell's involvement.

Mr. NEDZI. When did Mr. Mullen leave the firm?

Mr. BENNETT. Mr. Mullen moved to Florida in January, well, in December of last year.

Mr. NEDZI. 1973?

Mr. BENNETT. Yes. He is still the chairman of the board. The firm has not legally been dissolved although it has no more clients.

Mr. NEDZI. Did you keep him aware of all of your activities with Mr. Colson and Mr. Hunt?

Mr. BENNETT. Yes.

Mr. NEDZI. He was aware of your Dita Beard involvement and the involvement of the others?

Mr. BENNETT. I believe so. I don't recall specifically sitting down and briefing him on it. I had no reason to hide it from him.

Mr. NEDZI. That pertains also to the Chappaquiddick incident, the investigation of Senator Kennedy?

Mr. BENNETT. I don't recall specifically telling him that I had done such and such, but I had no reason to hide it. I think that he was generally aware.

Mr. NEDZI. Did you ever tell him about Colson wanting to recruit a secretary?

Mr. BENNETT. No, I don't think so.

Mr. NEDZI. With regard to Mullen and the CIA, would you tell us whether this involved any domestic activities at any time of any kind?

Mr. BENNETT. None to my knowledge.

Mr. NEDZI. Could there have been some involvement without your knowledge?

Mr. BENNETT. Not during the period that I was at the firm. I don't want to speak for what happened before I came there, Mr. Chairman.

Mr. NEDZI. Were you, at any time, made aware of any aspect of the Ellsberg matter by Hunt or anyone else?

Mr. BENNETT. No. I found out about the Ellsberg matter by reading it in the newspaper.

Mr. NEDZI. You had no information about a profile prepared on Ellsberg?

Mr. BENNETT. No.

Mr. NEDZI. Or from any source other than the newspapers, Mr. Bennett?

Mr. BENNETT. That is correct.

Mr. NEDZI. I have to answer a rollcall. We will go off the record and take a 10-minute recess.

[A 10-minute recess was taken.]

Mr. NEDZI. Back on the record.

Now, Mr. Bennett, for the record, how did you know that others were interviewed for the Newsweek piece on Mr. Colson?

Mr. BENNETT. Because the reporters told me.

Mr. NEDZI. Did they say who else was interviewed?

Mr. BENNETT. No.

Mr. NEDZI. At any time did anyone associated with the CIA ever instruct you or suggest to you that negative stories about Colson should be planted in the press?

Mr. BENNETT. No.

Mr. NEDZI. The only suggestions or remarks that were made about dealing with the press related to the cover of Mullen for the CIA?

Mr. BENNETT. That is correct.

Mr. NEDZI. Can you speculate at all as to what is behind Mr. Colson's allegations with respect to the CIA planting stories in the press?

Mr. BENNETT. I have tried to put myself in Chuck's shoes to understand all of this because I have always considered Chuck to be a friend of mine. I am perplexed as to why he would put this interpretation on things. I should say that, when we got the first indication, that is, Mr. Mullen and I, got the first indication that Chuck was peddling this theory, we called him. He was out of town.

However, Bob Mullen spoke to Mr. Shapiro, his lawyer. Mr. Shapiro denied it. He said that they had not given this information to them. The whole situation perplexes me.

Mr. NEDZI. When did that conversation take place?

Mr. BENNETT. It was in February of this year. It is my speculation, pure speculation, however, that, in the course of drawing up his brief, which was filed with Jaworski, in an attempt to stave off the indictment, Chuck came across the Eisenstadt memorandum.

Now, taken entirely at its face value, and without talking to me or Eisenstadt about it, certainly at least me, and he has then put this

interpretation that, somehow, I was instructed to do what I did; that somehow, and I can understand from reading the memo, how he could understand I was totally responsible for the article, because Eisenstadt said this. This does not happen to be the case, however.

He would say to the prosecutor, "Look, you can't indict me until you have checked out every conceivable possibility. Here is a major possibility that you have not checked out."

Now, the purpose is to throw up enough smoke and sand around the conspiracy case to have the prosecutor say, "We have got six people in this case anyway. Why add the seventh that has all of the controversy around? Why not let Mr. Colson go. We can deal with him separately and go ahead with the six that we have got."

The prosecutor did not respond in that fashion. Colson was indicted. The brief that he filed was ignored. This was a legal move, in my view. I have discussed this with a number of people that had the same question. This is the thought that I have as a result of the discussions.

Mr. NEDZI. Subsequent to the initial charge, Mr. Colson has pleaded guilty. He has been sentenced. Why does he persist?

Mr. BENNETT. I don't know. I can only assume that, if he started down the road in the way that I speculated, he came to believe his own reasoning. He began to convince himself that this was the case. I will not challenge his sincerity that he believes it now. He just—well, it just does not happen to be true.

Mr. NEDZI. Did you, at any time, have misgivings about being fully candid with Earl Silbert regarding Mullen's association with the CIA?

Mr. BENNETT. No.

Mr. NEDZI. Did you indicate to the Senate Committee that you had some misgivings?

Mr. BENNETT. I had misgivings about Earl Silbert's dedication to the prosecution of the case.

Mr. NEDZI. Why is that?

Mr. BENNETT. Because at the first interview with him, he was very guarded. He was not as vigorous in the prosecution as I thought that he should be. This has dissolved since I became better acquainted and we had subsequent conversations. I don't recall having any misgivings about sharing with Earl from the beginning the full details of the CIA situation.

Mr. NEDZI. Did you know Mr. Silbert before this encounter?

Mr. BENNETT. No.

Mr. NEDZI. The first time that you ever saw him was when you were called in to testify?

Mr. BENNETT. That is correct.

Mr. NEDZI. Did Hunt ever make any remarks to the effect that he would see you on the following weekend if he was not in jail?

Mr. BENNETT. Yes.

Mr. NEDZI. What do you think he meant by that?

Mr. BENNETT. I now speculate that he may have been referring to the Ellsberg case. Every prosecutor to whom I reported that statement immediately asked me to place it in time. I cannot. At the time that he said it, I didn't think that he was serious.

Mr. NEDZI. Was it long before Watergate?

Mr. BENNETT. I cannot place it in time. But it was before Watergate.

Mr. NEDZI. Did Mr. Hunt's statements on the 19th of June jolt your memory as to those comments?

Mr. BENNETT. Yes. There were other things that I had discussed with my father on the 20th. I expressed a firm conviction that Hunt was involved in spite of his denial, and that the White House was involved in spite of their denial.

Mr. NEDZI. You concluded that there was no moral obligation on your part to go to the authorities with this type of information?

Mr. BENNETT. It was my conclusion to let the investigation take its normal course. I would respond with this in the course of the investigation, which I did.

My moral question at the time was whether I had an obligation to go to the newspapers with this. I concluded that I did not at the time.

Mr. NEDZI. I cannot concur with the conclusion that there was not some responsibility to go to the law enforcement authorities with that information despite the fact that it was hearsay or that you could not serve as a positive witness in a trial.

Mr. BENNETT. I did serve as a witness at the trial. Had Howard not pleaded guilty, Silbert said that I would be one of the principal witnesses against him. I was fully prepared to do that.

Mr. NEDZI. Between the 19th of June and July 4, you apparently talked to nobody about this outside of your father and Mr. Mullen and an attorney?

Mr. BENNETT. I suppose that is right. I cannot think of anyone that I talked to.

Mr. NEDZI. Did you talk to Mr. Colson about it?

Mr. BENNETT. No.

Mr. NEDZI. Why not?

Mr. BENNETT. In my view, there was no occasion to.

Well, that is not true. I talked to Mr. Des Barker. Barker worked for Colson. He is a good friend of mine. I did express my misgivings to him. I told him of my determination when the legal process began, that is, to be completely candid and open with the U.S. attorney. He encouraged me to do this.

Mr. NEDZI. I am curious why you did not talk to Mr. Colson in view of the fact you had met with him fairly frequently and you were involved in dealing with him to put Howard Hunt on the payroll, and he was in Mr. Colson's employ—well, that you had suspended him, and all of these things. It seems to me to be a rather natural thing to have done under those circumstances, Mr. Bennett.

Mr. BENNETT. Mr. Colson was extremely difficult to get to during that period.

Mr. NEDZI. Did you try to get to him?

Mr. BENNETT. No. Because, on previous occasions, I learned that there was no point to try to get to him. He would not talk to you.

Now, I can go back at this time to the Dita Beard situation. I told Howard that the memo was a forgery, knowing that I simply could not get Chuck to return my call. Howard told Chuck and Chuck told me.

I told Des Barker about my concern and my activities. Barker worked for Colson. I felt if Colson had anything he wanted to discuss with me, that Colson could call me. Barker told me subsequently that he did not discuss it with Colson.

Mr. NEDZI. Did you tell Barker to ask Colson about it, Mr. Bennett?

Mr. BENNETT. No. I had gotten into the habit or the pattern by that time of recognizing that Chuck simply would not take the call. He would not return the call. I would deal with other people on his staff whenever I had any reason to discuss anytime, that is, anything, with his office.

Mr. NEDZI. Do you know whether or not Hunt had any actual retirement problems with the CIA?

Mr. BENNETT. No, sir, I don't.

Mr. NEDZI. Were you ever advised of any difficulty as far as his pension was concerned with them?

Mr. BENNETT. No, sir. I assume it was in order.

Mr. NEDZI. Did you ever request Hunt to check with the agency on allegations that Robert Maheu had been employed by the CIA at any time?

Mr. BENNETT. Yes.

Mr. NEDZI. Do you know with whom you checked?

Mr. BENNETT. No.

Mr. NEDZI. Can you describe why you asked Mr. Hunt to do this?

Mr. BENNETT. Maheu was fired by Howard Hughes in December 1970. I assumed that portion of Maheu's responsibility dealing with Government affairs in January 1971. The whole Maheu question was very much on everybody's mind at that time in the Hughes organization. Maheu was suing Hughes for \$50 million. One of the things that Maheu told Mr. Hughes, at least I was told, was that he, Maheu, was a CIA operator.

The Hughes people with whom I was dealing, they were now questioning virtually everything that Mr. Maheu had told Hughes about himself. As I heard them discussing this, the description of Maheu's activities on behalf of the CIA did not seem to me to make much sense. He was quoted as having made remarks with respect to activities in Cuba. Having just joined the Mullen Co. and having discovered that they had a CIA connection and that Howard Hunt was a former CIA officer that had worked on the Bay of Pigs operation, I thought that I would ask Howard if he ever heard of him. He said that he had not heard of him.

I asked about Maheu, but he said that he did not know. I said Maheu told Hughes that he worked for the CIA. Howard said, "Do you want me to find out?" I said, "That would be great if you could." He came back and said, "No, There was no trace of Maheu having ever done anything for the CIA."

Mr. NEDZI. Did Hunt make any other inquiry as to the CIA to your knowledge?

Mr. BENNETT. Not to my knowledge.

Mr. NEDZI. Did you request him to make any inquiries, Mr. Bennett.

Mr. BENNETT. None that I can recall.

Mr. NEDZI. Could you furnish for the benefit of the subcommittee, Mr. Bennett, a copy of the contract that you entered into with the CIA?

Mr. BENNETT. I am not sure I still have it. I will check and see.

Mr. NEDZI. Furnish it, please, if you have it?

Mr. BENNETT. Yes. [Not received.]

I never signed it. It was always signed by Mr. Mullen.

Mr. NEDZI. By Mr. Mullen?

Mr. BENNETT. Yes.

Mr. NEDZI. Do you have any reason to believe that Mr. Colson, at any time, had any relationship with the CIA?

Mr. BENNETT. No.

Mr. NEDZI. Or any reason to believe that he had any prior knowledge of the Watergate break-in?

Mr. BENNETT. No. If I may add this, I always assumed that he did not have, based on what Des Barker told me that his reactions to the news was. I so informed the Newsweek reporter during the interview that resulted in that particular story. I told him flatly and emphatically, in my opinion, Colson had no previous knowledge of the Watergate break-in.

Mr. NEDZI. When was the first time that you met Howard Hunt?

Mr. BENNETT. At the luncheon that I described.

Mr. NEDZI. With Mr. Caddy?

Mr. BENNETT. With Mr. Caddy and with Mr. Mullen.

Mr. NEDZI. Is it your judgment that Howard Hunt was earning his keep, so to speak, after he was employed by the White House, as far as your company is concerned?

Mr. BENNETT. Yes.

Mr. NEDZI. Go ahead.

Mr. BENNETT. Howard turned out a good product and the client was satisfied. I was satisfied with his work.

Mr. NEDZI. You mean BEH?

Mr. BENNETT. That is right.

Mr. NEDZI. Go ahead.

Mr. BENNETT. They did not like him but they liked the product.

Mr. SLATINSHEK. Earlier you mentioned that Howard Hunt had come in to see you about an increase in salary and, at the time, if my recollection is accurate, he was making \$24,000. He wanted a substantial increase that would provide him with a salary larger, in fact, than yours?

Mr. BENNETT. That is correct.

Mr. SLATINSHEK. He had been whipsawed between you and Mullen. Can you give us an idea when this occurred? Was this shortly after you moved into the organization?

Mr. BENNETT. Yes. This would have been in February or March of 1971.

Mr. SLATINSHEK. 1971?

Mr. BENNETT. Yes.

Mr. SLATINSHEK. What occurred as a consequence? Did you simply leave it at that?

Mr. BENNETT. When the call came from Colson—well, there are two steps. No. 1 is that I said to Howard, "This is silly. We are all grown men. Let's get the three of us in one room, you, me, and Mullen. Let us work it out." He was quoting Mullen to me and I was quoting Mullen to him, and so on. He said, "Fine." I told Bob Mullen I had suggested that we do that. Bob said, "Oh, don't worry about that. I will take care of Howard." Whereupon, he called Howard in, as has been described by both Mullen and Hunt.

He said to Howard, "This is a small organization. We have to pay here according to our income. It is obvious from your salary demands that you would be happier working for a big organization which can

pay according to a preset scale. I will be happy to help you find a job."

Howard wrote me a note, sir, saying, "I don't want to have a three-way meeting." When I spoke to him and asked, "Why not?" He said, "Because Bob Mullen just about invited me to leave. I am happy with my salary. I will let things ride as they are." Then, in 30 to 60 days or so, Chuck Colson called. He said that he had a job for Howard, that he would pay him. I said that this was the way out because I can continue to pay Howard roughly the same amount he is now earning. He will then get his raise by adding the income that comes from the second job.

Mr. SLATINSHEK. This is what intrigues me. You are a small organization. How many people did you have employed in a productive capacity other than clerical at that particular time?

Mr. BENNETT. At that time there were five of us.

Mr. SLATINSHEK. The contribution of each member was important to the financial success of the organization?

Mr. BENNETT. Yes.

Mr. SLATINSHEK. I assume Hunt devoted full time to his effort.

Mr. BENNETT. Yes.

Mr. SLATINSHEK. When he took the other job at the White House, he obviously had to spend some time at it. Would you say half and half?

Mr. BENNETT. No. He was with us at least 4 days a week. He did most of his work for the White House on weekends and in the evenings.

Mr. SLATINSHEK. His productive time in your organization remained pretty much steady. It was sort of a moonlighting effort on his part.

Mr. BENNETT. Exactly. The amount of time that he put in went down, but not to the point where it damaged his product or his output.

Mr. SLATINSHEK. Thank you.

Mr. BENNETT. Yes.

Mr. NEDZI. Was he still on an annual salary?

Mr. BENNETT. No. He was on per diem. I did raise the per diem. I took the \$24,000 and broke it down on a daily basis. I gave him a raise above that on the assumption that he would be working fewer days. The total take-home pay would stay around \$24,000.

Now, because we were on a cost-plus basis with the BEH contract, this could be done. There had been an inflation factor figured into the contract. We turned back money at the end of the year, having not used all of our appropriations. There was no complaint from BEH for the additional money that I paid to Howard.

Mr. NEDZI. What was his per diem?

Mr. BENNETT. After the change it was \$125.

Mr. NEDZI. Did you anticipate that he would work 4 days out of 5?

Mr. BENNETT. He settled into a pattern of a low of 15 days a month and a high of—I think the highest that he ever turned in was 22 days. Now, 22 days is virtually a full month. Fifteen days, however, is less.

Mr. NEDZI. How long was he employed under this arrangement, sir?

Mr. BENNETT. From the time he was—that he went with the White House, which would be July, 1971, until he was terminated in June of 1972.

Mr. NEDZI. That was almost a year?

Mr. BENNETT. Yes.

Mr. NEDZI. How much did he earn?

Mr. BENNETT. It was in excess of \$24,000. I have not totalled it up. It may have been closer to \$30,000. I don't have the specific figures.

Mr. NEDZI. He did work virtually full time?

Mr. BENNETT. Yes, at the higher figure. I assumed the higher figure per diem and the fewer number of days would produce about \$24,000. It produced a higher figure than that.

Mr. NEDZI. In order to produce a figure higher than that, he would have virtually had to work full time?

Mr. BENNETT. He would put in 4 days. It depends on your definition.

Mr. NEDZI. I just wanted, Mr. Bennett, to make your testimony clear. If he were earning \$24,000 a year working full time for you—

Mr. BENNETT. Excuse me. It is a daily rate at about \$100 a day.

Mr. NEDZI. If you make it \$125 and you talk about his earning in excess of \$24,000 for 11 months, what about that, Mr. Bennett?

Mr. BENNETT. No. I would put it on an annual basis, Mr. Nedzi.

Mr. NEDZI. Annual?

Mr. BENNETT. Yes.

Mr. NEDZI. At the time of Mr. Hunt's employment, did Mr. Mullen have any other CIA employees outside of those for whom the company was providing cover overseas?

Mr. BENNETT. Not to my knowledge, unless you include the bookkeeper. Our bookkeeper is a retired CIA employee. This is arranged so that he would be secure in preserving the cover.

Mr. NEDZI. How long has he been with Mullen?

Mr. BENNETT. I don't know.

Mr. NEDZI. He was there prior to your arriving there?

Mr. BENNETT. Yes.

Mr. NEDZI. He works full time as a bookkeeper?

Mr. BENNETT. He comes in two mornings during the week.

Mr. NEDZI. Has he done anything anytime that would cause you to believe that he continues to be on the payroll of the CIA?

Mr. BENNETT. No, sir.

Mr. NEDZI. Following the Watergate entry were you ever permitted by the CIA to read any FBI or CIA memorandums on witnesses of any kind?

Mr. BENNETT. No, sir.

Mr. NEDZI. Go ahead, Mr. Bennett.

Mr. BENNETT. Permitted by the CIA, no. Being permitted by the Ervin committee, yes.

Mr. NEDZI. The CIA never showed you any memorandums, any official memorandums of theirs or the FBI at any time?

Mr. BENNETT. They showed us one carbon copy of a memo they had sent to the FBI telling the FBI about the Mullen Co. connection with the CIA.

Now, this came after we had the experience with Sandy Smith at the time. He said, "I have seen a piece of paper." Bob Mullen said to the CIA, "We want to know what he has seen." They said, "Yes. We have given the FBI this piece of paper."

Mr. NEDZI. That was the only memo that you were aware of or entitled to see?

Mr. BENNETT. That is correct.

Mr. NEDZI. Did the FBI ever give you any memos to read, Mr. Bennett?

Mr. BENNETT. No, sir.

Mr. NEDZI. Not the FBI?

Mr. BENNETT. No, sir.

Mr. NEDZI. Did anyone from Mullen & Co. ever meet with Mr. Schlesinger?

Mr. BENNETT. Not to my knowledge. I have never met him in my life.

Mr. NEDZI. On June 28 of this year there was an Associated Press report in the Washington Star-News to the following effect: "On February 28, 1973, then CIA Director James R. Schlesinger, met with a representative of Robert R. Mullen & Co., an international public relations firm."

Mr. BENNETT. I have no knowledge of any such meeting, Mr. Nedzi.

Mr. NEDZI. It says: "Schlesinger told them to keep their mouths shut about their relations with the CIA because several people overseas as Mullen representatives were CIA people."

Mr. BENNETT. I have no knowledge of any such statement by Mr. Schlesinger.

Now, under our understanding of the contract, it would have been unnecessary. We were already doing that.

Mr. NEDZI. Go ahead.

Mr. BENNETT. What is the date of the meeting, supposedly?

Mr. NEDZI. February 28, 1973.

Mr. BENNETT. The [deleted] office had been long since closed. Any warning with respect to [deleted] would have been meaningless.

Mr. NEDZI. Go on.

Mr. BENNETT. [Deleted] was very much there at the time, sir.

Mr. NEDZI. The quote does not refer to [deleted]. It says, "because several people overseas as Mullen representatives were CIA people."

Mr. BENNETT. There was only the one man overseas at the time. It was the plural that made me think that you were referring to something else.

Mr. NEDZI. You have absolutely no knowledge of any meeting with Mullen representatives and Mr. Schlesinger?

Mr. BENNETT. No.

Mr. NEDZI. Is it reasonable to assume, in your judgment, that if there were such a meeting that you would be aware of it, Mr. Bennett?

Mr. BENNETT. I certainly hope so. I find it difficult to believe Mr. Mullen, the only other person that would have done it, would have had a meeting without telling me.

Mr. NEDZI. Do you know offhand how old Mr. Mullen is, Mr. Bennett?

Mr. BENNETT. He is 65.

Mr. NEDZI. Were you or any other members of your firm at any time directed to lie, if necessary, in denying a CIA cover?

Mr. BENNETT. Only in the context that I have already described, that if questioned by a newsman, we were to deny that there was a connection. That would constitute a lie, yes.

Mr. NEDZI. Who directed you to do this?

Mr. BENNETT. In the context, I described—well, it was in the conversation with Mr. Marty Lukoskie.

Mr. NEDZI. Did you, at any time, talk to anybody in the news media concerning other White House staff members besides Mr. Colson?

Mr. BENNETT. Not that I can recall.

Mr. NEDZI. Go ahead.

Mr. BENNETT. I would not have talked to them about Colson if they had not come to me and asked. I did not plan or plant anything. I did not initiate anything. They hunted me down, literally, in Los Angeles. They interviewed me.

Mr. NEDZI. In the 3½ years or the 2½-year period that you served, or as Mullen Co. served as cover for the CIA, how many times would you estimate you were in contact with Mr. Lukoskie?

Mr. BENNETT. That would be very hard. During that period, we had a number of matters to discuss. No. 1, it was during that period that the [deleted] office was open. It was during that period that they were also closed. During that period the [deleted] office was to have been shifted.

Mr. NEDZI. It might be easier to break it down in the period from when you came aboard until July 20. How frequently or how many contacts did you have?

Mr. BENNETT. That is what I am talking about. This happened after I came on board.

Mr. NEDZI. Between January of 1971, and when you came aboard, and the July 10 meeting with Mr. Lukoskie, how many meetings were there in that period?

Mr. BENNETT. As to face-to-face meetings where Lukoskie and I were both present, I would guess that there were two or three. There were frequent telephone conversations.

Mr. NEDZI. Two or three between January of 1971 and July 10, 1972?

Mr. BENNETT. That is right.

Mr. NEDZI. All of these meetings involved matters relating to the Mullen cover for the CIA?

Mr. BENNETT. Yes.

Mr. NEDZI. In addition, there were telephone conversations, Mr. Bennett?

Mr. BENNETT. Primarily between Lukoskie and Mr. Mullen at the time.

Mr. NEDZI. Were there many telephone conversations between yourself and Mr. Lukoskie?

Mr. BENNETT. No.

Mr. NEDZI. Were there any?

Mr. BENNETT. One or two.

Mr. NEDZI. Was the telephone employed for this purpose secured in any way?

Mr. BENNETT. Mullen told me that it was checked occasionally by the CIA to determine that it was secure. I never saw any evidence of any technician performing such a check at the time.

Mr. NEDZI. Do you have any idea as to what the conversation between Mr. Mullen and Mr. Lukoskie consisted of?

Mr. BENNETT. From what Mr. Mullen said, they all related to questions arising from our providing CIA cover in [deleted] and the subsequent decision to open an office in [deleted].

Mr. NEDZI. How frequent were those conversations, to the best of your memory?

Mr. BENNETT. This is very hazy. I would be surprised if they were more frequent than once a month.

Mr. NEDZI. Once a month?

Mr. BENNETT. Yes; and they were not regular.

Mr. NEDZI. Did you ever talk to Mr. Colson's attorney, who was Mr. Shapiro?

Mr. BENNETT. No.

Mr. NEDZI. Have you ever talked to Richard Bast?

Mr. BENNETT. No, sir.

Mr. NEDZI. Did you, at any time, ever believe that the CIA was involved in Watergate?

Mr. BENNETT. No, sir.

Mr. NEDZI. Mr. Slatinshek.

Mr. SLATINSHEK. I would briefly like to explore the financial arrangements that you had with the CIA and the company. You pointed out that you were motivated by the spirit of patriotism, and it was to your advantage prestigewise by having the two overseas offices.

Mr. BENNETT. Yes.

Mr. SLATINSHEK. I presume the CIA picked up the tabs for both offices and the complete cost of their operation overseas, sir?

Mr. BENNETT. That is correct.

Mr. SLATINSHEK. On occasion—well, you had occasion to use these offices to get some information for your clients?

Mr. BENNETT. Yes.

Mr. SLATINSHEK. Is that right?

Mr. BENNETT. Yes.

Mr. SLATINSHEK. What were the mechanical arrangements and what kind of money are we talking about?

Mr. BENNETT. Mr. Everett's salary from us was \$12,000 a year. All of his expenses, they were billed to us by Everett. Our bookkeeper would approach Mr. Lukoskie. He would say, for instance, "I need \$5,000." He would get a check from Mr. Lukoskie. We deposited in a separate banking account from our regular business checking account this so that there was no possibility of funds ever being commingled. He would pay Everett's salary from that account.

Now, that check required two signatures. None of the others did. The bookkeepers, mine or Mullin's, that is, were required. The expenses that Mr. Everett submitted, as to this, the bookkeeper paid out of that account. He would then submit to Mr. Lukoskie the list of expenses. If there were any expenses that were incurred that were not authorized, Mr. Lukoskie and the CIA could take this matter up directly with Mr. Everett. We did not have the authority to deny any of Everett's expenses.

The same pattern was followed with Mr. Hochberg when he went to [deleted]. There were a number of expenses connected with opening the [deleted] office that we thought were excessive and which our bookkeeper questioned. In every case he was told to pay them, that they were proper.

Now, the bookkeeper was authorized to transfer from this account to our regular banking account \$3,000 over the course of the year in order to compensate us for the amount of time that he, Mr. Mullen, and I spent to superintend the account.

Mr. SLATINSHEK. That was, in effect, your fee?

Mr. BENNETT. Yes. This concerned the amount of time in which was involved and our standard professional rates. But as to that, we were losing money. That is neither here nor there.

In addition, one officer of the company was authorized to take a trip at CIA expense to visit the foreign offices. Annually, Mr. Mullen would take a trip at CIA expense. He would virtually take a trip around the world to visit the offices.

When I went to [deleted] to close the [deleted] office, I also did other legitimate business for the firm on the trip at other locations. The CIA paid my hotel expenses in [deleted] and the transportation to [deleted]. The other hotel expenses and the other transportation, I paid this out of the standard account. The bookkeeper would make the delineation between these two and pay one set of expenses from one account to the other.

Mr. SLATINSHEK. How would you reflect income from the CIA on the books?

Mr. BENNETT. As ordinary income. We paid taxes on it.

Mr. SLATINSHEK. You did not identify the source?

Mr. BENNETT. No.

Now, in our tax return, we simply stated it as income or fees to be reflected. However, on the books, when I began, well, there were some entries that I did not understand until I was made aware of the CIA connection. He would simply put down the the name of the firm against whom the check had been drawn. The firm names, I am told, were CIA involved.

Mr. SLATINSHEK. Thank you. That is all that I have at this time.

Mr. BENNETT. Yes.

Mr. NEDZI. Mr. Hogan.

Mr. HOGAN. In connection with the Newsweek interview, if I understand your testimony, as far as you know, the CIA had no prior knowledge that you were going to be interviewed in connection with the Colson story?

Mr. BENNETT. That is correct.

Mr. HOGAN. Or, as far as any of the other matters that the press may have contacted you on?

Mr. BENNETT. That is right.

Mr. HOGAN. Their knowledge of the Colson interview was after the fact when you were explaining to them the steps you had taken to help to maintain the cover?

Mr. BENNETT. That is correct.

Mr. HOGAN. At any time during the course of his employment with you, did you suspect that Mr. Hunt was maintaining a CIA identity?

Mr. BENNETT. No, sir.

Mr. HOGAN. At any time did you have any prior knowledge of the Ellsberg break-in?

Mr. BENNETT. No.

Mr. HOGAN. Or any prior knowledge of the two Watergate break-ins that you heard about afterward?

Mr. BENNETT. No.

Mr. HOGAN. No prior knowledge of these?

Mr. BENNETT. No, sir.

Mr. HOGAN. Now, as far as the overseas offices are concerned, there were only the [deleted] offices, sir, while you were there?

Mr. BENNETT. Yes.

Mr. HOGAN. Were there others prior to that time?

Mr. BENNETT. Yes.

Mr. HOGAN. Where?

Mr. BENNETT. I can't be too precise about this, but Mr. Everett had previously been in [deleted] prior to being transferred to [deleted]. At one time the Mullen Co. operated for the CIA an office in [deleted].

Mr. HOGAN. The [deleted] one was also a CIA cover?

Mr. BENNETT. Yes.

Mr. HOGAN. And so was [deleted]?

Mr. BENNETT. Yes.

Mr. HOGAN. As far as you know those were all of the covers that Mullen maintained for the CIA?

Mr. BENNETT. That is true, but I would not be surprised if you found others during the period before I joined the company, sir.

Mr. HOGAN. The covers were terminated as far as you know, after the closing of the [deleted] office?

Mr. BENNETT. That is right.

Mr. HOGAN. There has been no association with the CIA in any form as far as covers are concerned since?

Mr. BENNETT. In any form whatsoever, yes, that is right.

Mr. HOGAN. How did you become acquainted with Mr. Colson?

Mr. BENNETT. I met him in the course of the 1968 campaign when I managed my father's campaign for reelection. Colson came to me to indicate that a number of his clients were interested in my father's reelection and anxious to make a financial contribution thereto, and could I tell him the name of the campaign treasurer and how the checks should be made out. I did this. This was the beginning of our association.

Mr. HOGAN. As far as closing the [deleted] office, was it only a concern raised by the Watergate publicity that prompted the CIA to close that activity?

Mr. BENNETT. No. I now know something that I did not know during the whole exercise which I wish the CIA had told me. It would have made things much more intelligible.

I know now that the CIA had a security breach, exposing to the Russians the Mullen Co. relationship with the CIA and that they would have closed both [deleted] had there never been a Watergate.

Now, rather than tell us that there had been a security breach, they used Watergate as an excuse to accomplish that purpose. Many of the phrases in the memos that became so famous in this whole affair that are very hard to understand, well, they stem from that fact.

Mr. HOGAN. When did you find out about that?

Mr. BENNETT. I was first told about that by Mr. Everett himself. He was upset that the CIA had not seen fit to be honest with us. That was in September of 1972 when I was on my trip on the way to close the [deleted] office.

Mr. HOGAN. You say that there was a similar circumstance in connection with [deleted] being closed?

Mr. BENNETT. The closing of the [deleted] office stemmed from the same incident.

Mr. HOGAN. There was a cover problem with the individual out there?

Mr. BENNETT. No. Maybe I should go through the whole thing. I assumed that you had this information.

This is what Everett told me when I was in [deleted] in September of 1972, or early October. He said that there had been a security breach within the Agency, that a CIA officer had gone to the Russians and told them everything that he knew.

Now, among the things that he knew was the fact that the [deleted] office of Mullen was a CIA cover.

Mr. NEDZI. Did he say where the CIA office was situated or the officer?

Mr. BENNETT. No. But the great concern for security of the Mullen Co. cover stemmed from this incident rather than concern over Watergate.

Now, as Mr. Everett explained, the CIA found out about the security breach through a contact they had that is very high in the Russian security apparatus. For them to close the Mullen Co. office would be to demonstrate to the Russians that they knew the breach had taken place. Therefore, to do that, would jeopardize the life of their contact in the Russian apparatus. The Russians would know that they would have gotten it from that source.

He said the reason that they were so concerned about [deleted] is not the story that they told you about the cover being blown in [deleted].

Mr. NEDZI. What is the story?

Mr. BENNETT. That our man out there had been recognized by a former college professor who was aware of the fact that he had been negotiating with the CIA for a job. The man convinced the professor, "No, I am not working for the CIA. I really did go with the Mullen Co."

Then they said that Watergate hit and the professor looked him up and said, "I have seen your name with Mullen Co. and Watergate and CIA in the International Herald Tribune. You are a CIA agent. I will tell the authorities." That is the story they told us. They said that they had to get him out.

I subsequently talked to the agent. I asked point blank if that happened. He said, "The professor did recognize me but he never came back and said anything about Mullen Company." He said, "I really don't know why they pulled me out."

Mr. NEDZI. Where did Mr. Everett say that he got this information?

Mr. BENNETT. He did not say.

Now, since he was involved as an undercover employee, I assumed that it was quite natural that he be told his position would be affected.

Mr. NEDZI. It would be unnatural for him to get all the details, wouldn't it?

Mr. BENNETT. I don't know enough about the CIA operation to say. It did not strike me as unnatural.

Mr. NEDZI. Did you have any other source for this information?

Mr. BENNETT. It came from Mr. Everett, strictly from him. After the [deleted] office was closed, again, with Watergate as the excuse, and the investigation began on the Hill, well, I testified before the Ervin committee. At that time I was shown the July 10 memorandum from Lukoskie. I was asked to comment on it.

In the memo, is the phrase, as I recall: "We may not be able to terminate the arrangement as a result of the Watergate situation

unless it gets bad enough, in which case we will have to level with Mullen and Bennett about the WH flap."

When I read this before the Ervin committee, I assumed that WH flap meant the White House, but in the course of the questioning, it meant Western Hemisphere. That is when the Ervin committee investigators told me that the defection or the breach had occurred in the Western Hemisphere. They filled in the details that Everett had not completed.

Now the story, as I understand, is that the security breach occurred. The decision was made to terminate the cover with the Mullen Company. Watergate occurred. The CIA said, "Here is a handy excuse." I was frustrated by their excuse. That is, I frustrated their excuse by preserving the cover when I dealt with the newspapers. If they actually had told me that they wanted to terminate it for this reason, I would have been far less zealous in protecting the Government's cover overseas.

Mr. NEDZI. Isn't there something of an inconsistency between their encouraging you to pursue this and their desire to use this as a cover for closing the office?

Mr. BENNETT. Yes.

Mr. NEDZI. Can you reconcile that?

Mr. BENNETT. Yes, I have dealt with bureaucrats and so have you. It says in the manual that you preserve the cover at all costs. It also says something else. The bureaucrat will do both without ever worrying about it. It was a reaction on Mr. Lukoskie's part. His business was to get companies to preserve the cover at all costs. He would say, "You are doing great. Keep it up." At the same time he wished somehow that it would blow so that he could use it as an excuse to terminate the cover without telling us.

The manual also says never tell them any more than they absolutely have to know. I wish they had been responsible enough and felt that we were responsible enough to share this information with us and lay the cards on the table. They could then terminate the office in a responsible and orderly fashion.

Mr. NEDZI. Why are you so certain the information that Everett gave to you in this regard is accurate?

Mr. BENNETT. I have never had reason to doubt Mr. Everett's word. Are you suggesting it was planted?

Mr. NEDZI. No; I am not suggesting it. There could be a misunderstanding. Unfortunately, the committee has not had the benefit of Mr. Everett's testimony. Is there any corroborating evidence available of any kind that you have or have been advised of?

Mr. BENNETT. Only the Lukoskie memo and the reference to the Western Hemisphere flap; also the comments of the Ervin committee people. This was corroboration, I thought.

Now, when they straightened me out about it being a White House flap—

Mr. NEDZI. Some people are not straight yet in that regard but you may go ahead.

Mr. BENNETT. They said, "You say WH means White House, but could it mean Western Hemisphere?" I said, "I guess that it could." They asked me how much I knew about this. I told them what Mr. Everett had said. They said that was essentially correct.

Mr. NEDZI. They straightened you out to the extent they redefined the WH?

Mr. BENNETT. Yes; they therefore placed the location of the security breach. They also explained something which had puzzled me before.

Mr. NEDZI. What was that?

Mr. BENNETT. It was why the agency should delay so long to terminate [deleted] when they terminated [deleted] almost immediately. If they could trump up a scenario that would cause us to believe [deleted] could be terminated, they could do it with [deleted] without depending on Watergate. The reason is if the defection occurred, or the security breach occurred, within the Western Hemisphere, then [deleted] had been a continuing situation and Everett had never been in the Western Hemisphere. Then there could well be the assumption that [deleted] was a legitimate operation.

Mr. HOGAN. Did the Senate Committee people go into detail with you on the defection and tell you the facts as they knew on this?

Mr. BENNETT. I don't recall that they did.

Mr. HOGAN. How far did they go in explaining what happened?

Mr. BENNETT. They filled in the gaps of the story that I had told them from Mr. Everett.

Mr. HOGAN. Are you saying that they were sort of corroborating Mr. Everett's story?

Mr. BENNETT. Yes.

Mr. HOGAN. I have another question.

Mr. BENNETT. Yes.

Mr. HOGAN. Now, Mr. Bennett, you referred to, I think, a CBS story that blew the cover?

Mr. BENNETT. Yes.

Mr. HOGAN. Just briefly tell us what that was and when it happened?

Mr. BENNETT. It happened in February of this year. I could get the exact date. I received a telephone call from—well, that is improper to say. Let me start over.

Mr. HOGAN. Yes.

Mr. BENNETT. My father received a call from Senator Baker. He told him to tell me that he had been questioned by CBS and by the Washington Post in such a way that he was convinced that—that is, Baker was convinced—that the story had somehow leaked. My testimony before them was in executive session in December. It has been held secure for that period of time.

Now, Baker felt that I ought to know it had been leaked and that these people would be coming at me.

I then made a decision, along with the others that I had made during the period, some of them wise and some otherwise, that, under the circumstances, my best defense was the complete truth.

When Marty Plizner of CBS News came to see me and started to dangle some of the charges that had been subsequently made in front of me, I said, "All right, I am going to tell you the whole story." I told him everything. I did not tell him about the security breach, but I did tell him that the Mullen Company provided service of cover overseas and I had denied it previously.

I said, "Here is what was done and here is why, and up until now I had borne the responsibility to determine whether this should be public. I am sorry to do this, but you now bear this responsibility. You

must decide if it is in the interest of your country to have the CIA activities in [deleted] be made a matter of open public record."

He said, "You have told me this as background, so I cannot use it under the terms of the newspaperman's code without your permission. I won't do anything without calling." I said "Fine."

I did the same thing with Larry Myer of the Washington Post. Mr. Myer's reaction was very strong. He said, "This is not a story. This is not legitimate news. We will not do anything unless I call you."

Now, Mr. Plizner, he called a week or 10 days later. He said, "We cannot hold it. It is all over town. We are going with the story tonight." He wanted to read it to me. He read it to me. It was terrible. The insinuations and implications put me smack in the middle of the whole Watergate conspiracy and the hush money and the Hughes matter.

I said, "Marty, that is just awful. You have put the worst construction on the set of facts." He said, "All right, what will we do with it?" I said, "The mention of my father is gratuitous, and that of Hughes is gratuitous, and I did not do this and I did not do that." He said, "I will call you back. I will see what I can do." This was at 6:30 and it was put on the 7:00 news. He did not call me back.

I watched the news with great interest. Dan Rather came on. The story that he reported was very innocuous compared to that read to me on the phone. It did not mention my name. It mentioned the company, [deleted]. They reported the CIA had operations in both places.

About a half hour later the phone rang again. It was Dan Rather and Mr. Plizner. I thanked Rather for cleaning it up. He said, "You have a very persuasive advocate in Mr. Plizner. He convinced me that we should not do that type of a job on you. I have been in this town long enough to know the difference between a genuine news break and a situation where something is laid on me in the hope that I would use it. This one was laid on me. Do you have any idea why?"

I said, "I cannot tell you why unless you can tell me who." He said, "I cannot divulge my source. There is a second story, I am told, that will hit on you within 48 hours. This will be a bombshell." Then he asked if I had any idea what it was. I said, "Yes; it was the Eisenstadt memo or the interpretation accusing me of planting the Newsweek story." He said that he would stay in touch.

Two days later Daniel Schorr called Mr. Mullen. Mullen called me and said, "I just talked to Daniel Schorr. He had a story that you, acting on behalf of the CIA, planted all these terrible things about Colson in an effort to divert attention from the truth."

Now, Mullen said to Schorr, "Where did you get this?" Schorr said, "I got it from Mr. Colson." He said, "What is your reaction?" He read the story that they were going along with. It had a number of inaccuracies. I said, "This is false and that is false." He said, "Gee, you sound awfully convincing. Will you go in front of the camera and say that?" I said, "No. I will not. You can quote me but I will not go on camera." He called back and said that he decided to hold it until tomorrow.

The next day, which was the day of the big snow last winter, he said, "I am sending a crew out to film your statement." I said, "I am not going to make any statement."

I called Mullen. I said, "What is going on here?" We decided to call Colson and ask him what he said. Mullen called Colson. Colson was in

Los Angeles. However, he talked with Shapiro. Shapiro said that he had made no statement to CBS and given out nothing. "They are trying to get you to react. Then they will pick a fight between you and Colson."

When Schorr called me to ask for the statement, I said, "Look, we have talked to Shapiro. He said that he has given no statement. Mr. Schorr said that "Colson has given us no statement, the same way that you have given us no statement."

I sat in his office and heard him describe this. Schorr said, "I sat in his office and heard him describe this. It is technically true, now, that he has given us no statement." But he said, "Don't kid me. I know what the source of this is. It is a red herring and I am going to play it as such in the news, that he is trying to use you to create this." I gave him a statement.

However, then it was out. The press came to me at that point. Mullen and I drafted a statement saying, "Yes, we have cooperated with the CIA; yes, we provided cover overseas; yes, we have tried to preserve that cover through the past year and a half. We have cooperated with law enforcement authorities completely and thoroughly. We have told them the facts from the beginning so that their legal investigation of the break-in can proceed with a full knowledge of the Mullen CIA ties." We issued that statement. We have had no further publicity about this until Chuck's last blast.

Mr. HOGAN. Was there ever any communication between you and the CIA with regard to Mr. Hughes?

Mr. BENNETT. No.

Mr. HOGAN. Did you ever talk to Mr. Bittman, the attorney for Mr. Hunt?

Mr. BENNETT. Yes.

Mr. HOGAN. What was the substance of that conversation?

Mr. BENNETT. Mr. Bittman wanted to know if Howard had been terminated because the term that I had originally used was suspended. I told him, yes; that he had been. He wanted to know what the terms of Howard's severance was and whether he was entitled to severance pay. I told him that since he had been on per diem, that he was not. I would pay him for the days that he had worked for which he had not been paid, but not anything further. We negotiated the number of days and the terms. This was the principal subject of the conversation.

Mr. Bittman then said, "I would appreciate it if you feel you can, if you would tell me what you told the grand jury about Howard." I said, "I have no problems telling you about that because it is virtually in the public domain." I told him how I responded to the grand jury questions.

Mr. HOGAN. Thank you very much.

Mr. BENNETT. Yes.

Mr. NEDZI. What do you know about the relations between the reporter Smith and Mr. Mullen?

Mr. BENNETT. Sandy Smith?

Mr. NEDZI. Yes.

Mr. BENNETT. Only that Mullen said that he was a friend.

Mr. NEDZI. You don't know what kind of friendship that is or how long they knew one another?

Mr. BENNETT. No, sir.

Mr. NEDZI. Now, I have no further questions.

Is there anything that you would like to add before we close this hearing?

Mr. BENNETT. I would only like to say, Mr. Chairman, that I appreciate very much the opportunity of having been here. As I think and hope that you can appreciate that the past 2 years have been rather difficult in many aspects. It has not been often that I have been able to find a forum where people are interested in the forum and be clear to the extent that I can tell the whole story of the amount of my involvement in these things.

As a result of this, I am under a cloud of some suspicion in many circles. I am in no difficulty with Mr. Jaworski or the Special Prosecutor's Office. I think that I am now in no difficulty with the Ervin committee. I would hope, as a result of this, that I am in no difficulty with this committee. This arises only when the forum that I described is made available. I appreciate very much its being made available so that I could tell the story as I know it.

Mr. NEDZI. We truly appreciate your statement and your cooperation. We want to thank you on behalf of the subcommittee for appearing here today voluntarily.

Mr. BENNETT. Thank you.

Mr. NEDZI. The subcommittee will stand in recess until the further call of the Chair.

[Whereupon, at 2:05 p.m., the subcommittee recessed.]

APPENDIX

CUSHMAN/HUNT MEETING

22 July 1971 1548-1600 hours

DDCI: General Robert E. Cushman, Jr.

GUEST: Mr. E. Howard Hunt

DDCI and Mr. Howard Hunt

DDCI: It's good to see you again. How are you. Come on in and have a seat.

GUEST: Thank you. Could we make this just the two of us, if you don't mind.

DDCI: All right. Sure. We certainly can.

GUEST: Thank you very much.

I've been charged with quite a highly sensitive mission by the White House to visit and elicit information from an individual whose ideology we aren't entirely sure of, and for that purpose they asked me to come over here and see if you could get me two things: flash alias documentation, which wouldn't have to be backstopped at all, and some degree of physical disguise for a one-time op - in and out.

DDCI: I don't see why we can't, no.

GUEST: And keep it - you know, just as closely held as possible.

DDCI: Yeah. Yeah. All right.

GUEST: And for that, I don't know how you or the cover people want to work it, but what I would like to do would be to meet somebody in a safehouse and (they wouldn't even know my name) (wouldn't need to know my name). And this would mean the essential thing here, give me some - a little disguise. And I'm planning on travelling either Saturday or Sunday. (I don't know) how soon this could be accomplished. Perhaps tomorrow afternoon would probably be the earliest this could be accomplished. So if we could some way meet tomorrow afternoon, that would be great.

DDCI: Yeah. Okay.

GUEST: By the way, you're looking very well.

DDCI: Well its a nice job.

GUEST: Well, I know. I saw you at the Wisner Memorial presentation that day -- You know, the (plaque) we --

DDCI: Yeah, right.

GUEST: -- had to give downstairs. And if you'll pardon my saying so, you seem to have lost a little weight --

DDCI: Oh yeah, I've taken some off.

GUEST: And you're looking great.

DDCI: I sort of go up and down. When I go down it's because I go on the wagon and don't eat very much at all. And this is hell to pay when you're being entertained and going to embassies and dinners. But it's the only way to lose weight - is to be miserable --

GUEST: Well I have the same problem.

DDCI: Relatively miserable.

GUEST: And curiously, since I retired over here the thing I miss most is the gym facility. I used to get down there - I'd be there about 15 minutes before the Director would arrive, so we'd kind of overlap a little bit. And that really kept my weight down -- because it discouraged midafternoon snacking, you know. And then I didn't feel the need of a drink when I got home -- I was too tired, etc. But I do miss that facility.

DDCI: Yeah. Well I haven't used it. I ordinarily trot or jog for 30 minutes in the morning at home. And God, if I wait until the afternoon, I'm too tired. I'm just getting to the old age point where when I get home in the afternoon I may work in the workshop or a little bit of work in the yard, but I don't feel like running --

GUEST: I know what you mean.

DDCI: I'm amazed at the boss, because he's still doing it, and it may be five-thirty or five o'clock when he gets down there. I'm usually -- Phew! I don't want any athletics at that point. I'd rather . . .

GUEST: Yeah, that's right. I try to do a little setting-up exercise in the morning, but I'm not consistent about it. If I were -- Just as you are with your jogging (before you get to work). When I get downtown I'm swept up in things, just as you are here. It's too late. The day is gone by then.

DDCI: Let's see -- I can get in touch with you at the White House, can't I?

GUEST: Uh-huh.

DDCI: -- to tell you what address to go to, and so forth, downtown.

GUEST: Okay. That will be perfect.

DDCI: Fine. All right.

GUEST: So we can lay it on -- Do you think by tomorrow afternoon is ample time?

DDCI: I'll give it a try, yeah. I haven't even talked to anybody yet. I suppose they could do it.

GUEST: Sure.

DDCI: I haven't been in this business before -- haven't had to --

GUEST: I'd appreciate it. John Ehrlichman said that you were the --

DDCI: Yeah, he called me, sure. I mean I haven't been in the cover business so I don't know whether they operate real fast, but I suppose they do.

GUEST: Well I know they can. I know they can. I've done this before in the old days. And it's just a question of getting some flash documentation and some physical disguise.

DDCI: What do you need? that would be the first thing they would ask you.

GUEST: Well, I'll need -- Let's see, what have I got here? I'll probably need just a driver's license and some pocket litter.

DDCI: A driver's license --

GUEST: A driver's license in any state at all -- I don't care. Some pocket litter of some sort -- they have pretty standard stuff.

DDCI: Oh, they have? Okay. You call it pocket litter?

GUEST: Pocket litter. That's what they call it.

DDCI: You don't care in what name --

GUEST: I would like the first name to be Edward -- that's all -- if it could be Edward. Because I'm being introduced to this gentleman by just one name. We (just) . . . this morning that somebody by the name of "Edward" would be getting in touch with him.

DDCI: And any state's driver's license.

GUEST: Yes, any state -- it doesn't make any difference. And I'm going to just have to check into a hotel, and I'll be using this alias documentation for that. And I'll be talking with this individual - in and out. And if it goes over well, that's swell. But if (it doesn't) . . . , I just don't exist, and it's not possible to describe me.

DDCI: And a physical disguise.

GUEST: Yeah.

DDCI: Okay. Let's see -- you gave me a number one time that I could get you --

GUEST: Right. I think Chuck Colson's -- My office is unattended so far. But that's the direct line - Colson's office. Yeah, (2352). My office is two floors up and I'm only there a little part of the time.

DDCI: All right, fine. In other words, whoever is there --

GUEST: Whoever's there, yes.

DDCI: -- will get the word to you --

GUEST: Anybody can get to me.

DDCI: -- and I can give them the --

GUEST: That's right, yeah.

DDCI: Or should I ask for you to call me back?

GUEST: No, Joan (Hall) is the --

DDCI: Is the gal that answers the phone.

GUEST: That's right, she'll answer the phone - Joan Hall --

DDCI: And I can give her the time and what address --

GUEST: Time and place.

DDCI: Okay, fine.

GUEST: I just -- You know, I know so many people out here it's just as well that I'm not seen. And for all I know they'll put a physical disguise on me that's going to stick, and I wouldn't want to be seen walking out of here --

DDCI: Yeah, right.

GUEST: I'm sure they've got safe facilities downtown.

DDCI: Yeah. They sure as hell did on my last tour of duty here -- (deleted)
Well, they're keeping you busy with this new --

GUEST: Well they sure are, I'll tell you! But actually I'm delighted that they thought about me, and thought to call on me, and that I had the time. This gives me about a 12-hour day now. But far from --

DDCI: It keeps you from thinking you're retired --

GUEST: Far from going into retirement, it just accelerated my pace. But I don't really mind that. And I'm quite convinced that the reason that we're doing all this is - you know, for a good purpose, an essential purpose. So that when you're motivated, those things all come very easily.

DDCI: Good. Well if you see John Ehrlichman say hello for me.

GUEST: I will indeed. I expect to be seeing him tomorrow some time.

DDCI: He's an old friend of mine from previous days. He's got himself a full platter, too.

GUEST: Oh, doesn't he just!

DDCI: How's that domestic counsel working out? You don't hear much in this business --

GUEST: No. No. That's true.
It's working out pretty well.

DDCI: -- a good relationship taking shape --

GUEST: Yes, it is. Yeah. But of course two things that really electrified the White House -- And I don't know why I'm telling you this, because your contacts are undoubtedly much higher than mine over there. -- were the Pentagon Papers, of course - for one thing - and then the other thing was the (China revelation). These are the two that they're going full blast on.

DDCI: Well I think John has been in charge of the security overhaul, hasn't he?

GUEST: That's right. Sure.

DDCI: Well I guess that's right. It's sort of a domestic problem rather than a Kissinger problem.

GUEST: Right! it is indeed.

DDCI: But not really -- I don't know what goes on on that side --

GUEST: But they're very compartmented --

DDCI: I just substitute for the boss, you know, on Kissinger meetings -- whatever group it is -- they've all got different names but the same people sit there.

GUEST: But I find the same type of compartmentalization over there as I did here. And I'm delighted to find it! really! If you don't need to know, you just don't know what it's all about.

DDCI: Yeah, Yeah.

GUEST: What Ehrlichman is doing this morning is no business of Kissinger's or the Vice President. (So this is great). (Because of) somebody at the top we've got to watch these things.

DDCI: Yeah, that's right.

GUEST: And you know who it is. (deleted)

DDCI: Well, actually, he's got Haldeman who is supposed to, I think, make sure that all the wires are closed -- all the circuits are closed.

GUEST: But he's still pretty interested -- I was in a number of White House offices talking to different people - not about the China revelation but the morning after it occurred and the President was sort of calling around to get a consensus, and as I would go from one office to another - the President would be calling this fellow, and then I'd go to another office and the President would be calling this guy - and so on -- trying to get a consensus. It was then 7:30 in the morning out in San Clemente! So I knew that he had been up for a while.

DDCI: Right. Right.
Okay. Well, let me get to work on this, then.

GUEST: Yes.

DDCI: And I'll get the word back to you.

GUEST: Good enough. And the less my name comes up, absolutely the better.

DDCI: Yeah. Okay.

GUEST: If you want me to use a pseudonym with this guy -- Actually I suppose the best type of place - if he's in a room, if he's in some place, I'll get there at a specified time and I'll just go in and --

DDCI: Yeah. Okay, fine. I'll get the word to you on how we'll work it.

GUEST: Fine. And I hope Karl didn't resent my asking him to (leave) --

DDCI: Oh no, no. I just had him here in case there was something that needed staff . . .

GUEST: It certainly wasn't that much involved.
General, thank you very much.

DDCI: Good to see you again.

GUEST: Good to see you.

